Federal Register

7–16–03 **Wednesday**
Vol. 68 No. 136 **July 16, 2003**

Pages 41901–42240

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FEDERAL RESERVE SYSTEM

12 CFR Part 225

[Regulation Y; Docket No. R–1146]

Bank Holding Companies and Change in Bank Control; Correction

AGENCY: Board of Governors of the Federal Reserve System (Board).

ACTION: Final rule; Correction.

SUMMARY: On July 3, 2003, the Board published in the **Federal Register** a final rule amending Regulation Y. The rule permits bank holding companies to take and make delivery of title to commodities underlying commodity derivative contracts on an instantaneous, pass-through basis and to enter into certain commodity derivative contracts that do not require cash settlement or specifically provide for assignment, termination, or offset prior to delivery. This document corrects a footnote in the final rule.

DATES: The correction is effective August 4, 2003 (*i.e.*, the effective date of the final rule).

FOR FURTHER INFORMATION CONTACT: Mark E. Van Der Weide, Counsel (202/452–2263), or Andrew S. Baer, Counsel (202/452–2246), Legal Division. For users of Telecommunications Device for the Deaf (TDD) only, contact (202) 263–4869.

SUPPLEMENTARY INFORMATION: This document corrects the footnote in § 225.28 List of permissible nonbanking activities. In the final rule, FR Doc. 03–16835 published on July 3, 2003 (68 FR 39807), make the following corrections:

§ 225.28 [Corrected]

■ On page 39810, in the second column, remove the references to footnote 12 in the rule text and footnote and replace them with references to footnote 9.

By order of the Board of Governors of the Federal Reserve System, July 10, 2003.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 03–17931 Filed 7–15–03; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NM–156–AD; Amendment 39–13224; AD 2003–14–05]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model 717–200 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to all McDonnell Douglas Model 717 airplanes. This action requires repetitive inspections for cracking of the support fitting assemblies and stop pads of the main spoiler actuators, and follow-on actions. This action is necessary to find and correct cracking of the support fitting assemblies of the main spoiler actuators, which could result in damage of adjacent structure such as the rear spar or upper skin panel, and consequent reduced structural integrity of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective July 31, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 31, 2003.

Comments for inclusion in the Rules Docket must be received on or before September 15, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2003–NM–156–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-iarcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2003–NM–156–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 or 2000 or ASCII text.

The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the *Office of the Federal Register,* 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Maureen Moreland, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5238; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: On February 20, 2003, the FAA issued AD 2003–04–24 (68 FR 9525, February 28, 2003) for certain McDonnell Douglas Model 717–200 series airplanes. That AD required a one-time inspection for cracking of the support fitting assemblies and stop pads of the main spoiler actuators, and follow-on actions. That AD also required a report of the results of the one-time inspection that would help enable the manufacturer to obtain better insight into the nature, cause, and extent of the cracking. Such cracking of the support fitting assemblies of the main spoiler actuators could result in damage of adjacent structure such as the rear spar or upper skin panel, and consequent reduced structural integrity of the airplane.

Since the Issuance of That AD

Since the issuance of that AD, we have received new reports indicating cracking in one of the four spoiler main

actuator support fitting assemblies. At least one cracked support fitting has been reported at each of the four locations. The manufacturer is still investigating the possible root cause(s) of the cracking.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin (ASB) 717–57A0016, dated May 29, 2003, which describes procedures for performing repetitive visual inspections to find cracking of the left and right wing, inboard and outboard support fitting assemblies of the spoiler main actuators. If no cracking is detected, the ASB describes procedures for lubricating the spoiler system. If any cracking is detected, the ASB specifies contacting the manufacturer for instructions for repair and additional inspections. The ASB also specifies that results of the inspections be reported to the manufacturer. The ASB advises that closing action for the repetitive inspections will be provided in a future service bulletin.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD requires accomplishment of the actions specified in the service bulletin described previously, except as discussed under the heading ''Differences Between This AD and the Alert Service Bulletin.''

Interim Action

This is considered to be interim action. Once final action has been identified, developed, and approved, the FAA may consider further rulemaking.

Clarification of Inspection Type

The service bulletin identifies the inspection for cracking or other discrepancy as a ''visual'' inspection. We have determined that the inspection described in the service bulletin constitutes a ''detailed'' inspection. Note 1 of this AD defines such an inspection.

Differences Between This AD and the Alert Service Bulletin

Operators should note that, although the service bulletin specifies that the manufacturer may be contacted for disposition of cracking conditions, this AD would require the repair of those conditions to be accomplished per a method approved by the FAA, or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the FAA to make such findings.

Operators may note that the Accomplishment Instructions of the ASB specify reporting the inspection results to the manufacturer. However, this AD does not require operators to submit inspection findings.

Changes to 14 CFR Part 39/Effect on the AD

On July 10, 2002, the FAA issued a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's airworthiness directives system. The regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance (AMOCs). Because we have now included this material in part 39, only the office authorized to approve AMOCs is identified in each individual AD.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.
- Include justification (*e.g.,* reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2003–NM–156–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by adding the following new airworthiness directive:

2003–14–05 McDonnell Douglas: Amendment 39–13224. Docket 2003–NM–156–AD.

Applicability: All Model 717–200 airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To find and correct cracking of the support fitting assemblies of the main spoiler actuators, which could result in damage of adjacent structure such as the rear spar or upper skin panel, and consequent reduced structural integrity of the airplane; accomplish the following:

Repetitive Detailed Inspections

(a) Prior to the accumulation of 2,000 total flight hours, or within 550 flight hours after the effective date of this AD: Perform a detailed inspection for cracking of the support fitting assemblies and stop pads of the main spoiler actuators, per the Accomplishment Instructions of Boeing Alert Service Bulletin (ASB) 717–57A0016, dated May 29, 2003. Thereafter, repeat the detailed inspections at intervals not to exceed 550 flight hours.

Note 1: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, *etc.,* may be used. Surface cleaning and elaborate access procedures may be required.''

No Cracking Found: Follow-on Action

(b) If no cracking is found during any inspection required by paragraph (a) of this AD, before further flight, lubricate the spoiler system and ensure that grease ''squeeze-out'' occurs at the locations indicated in Figure 3 of the Accomplishment Instructions of Boeing Alert Service Bulletin 717–57A0016, dated May 29, 2003.

If Any Cracking Found:

(c) If any cracking is found, before further flight, repair and perform follow-on inspections per a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA; or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Los Angeles ACO, to make such findings. For a repair method to be approved, the approval must specifically reference this AD.

No Reporting Requirements

(d) Although the Accomplishment Instructions of the ASB referenced in this AD specifies to submit information to the manufacturer, this AD does not include such a requirement.

Alternative Methods of Compliance

(e) In accordance with 14 CFR 39.19, the Manager, Los Angeles ACO, is authorized to approve alternative methods of compliance for this AD.

Incorporation by Reference

(f) Unless otherwise specified in this AD, the actions shall be done in accordance with Boeing Alert Service Bulletin 717–57A0016, dated May 29, 2003. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(g) This amendment becomes effective on July 31, 2003.

Issued in Renton, Washington, on July 3, 2003.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–17430 Filed 7–15–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–CE–51–AD; Amendment 39–13226; AD 2003–14–07]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Models PC–12 and PC–12/45 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to all Pilatus Aircraft Ltd. (Pilatus) Models PC–12 and PC–12/45 airplanes. This AD requires you to repetitively replace the nose landing gear (NLG) drag link right-hand part every 4,000 landings until an improved design NLG drag link right-hand part is installed. This AD also requires you to install an improved design NLG drag link right-hand part as terminating action for the repetitive replacements. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Switzerland. The actions specified by this AD are intended to prevent structural failure of the nose landing gear (NLG) caused by fatigue damage to the NLG drag link right-hand part that develops over time. Such failure could result in either an unintended NLG extension during flight or the NLG not properly locking upon extension, which could lead to loss of airplane control during landing operations.

DATES: This AD becomes effective on September 5, 2003.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of September 5, 2003.

ADDRESSES: You may get the service information referenced in this AD from Pilatus Business Aircraft Ltd., Product Support Department, 11755 Airport Way, Broomfield, Colorado 80021; telephone: (303) 465–9099; facsimile: (303) 465–6040. You may view this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002–CE–51–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

What events have caused this AD? The Federal Office for Civil Aviation (FOCA), which is the airworthiness authority for Switzerland, recently notified FAA that an unsafe condition may exist on certain Pilatus Models PC–12 and PC–12/45 airplanes. The FOCA reports that 3 aircraft experienced a failure of the nose landing gear (NLG) drag link assembly during cruise flight. The actuator attachment levers on the right-hand upper drag link part failed. In all cases, the NLG fell out due to gravity, and the emergency spring pack extended it forward and allowed safe landings.

What is the potential impact if FAA took no action? Structural failure of the

NLG drag link right-hand part could result in either an unintended NLG extension during flight or the NLG not properly locking upon extension. This could lead to loss of airplane control during landing operations.

Has FAA taken any action to this point? We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all Pilatus Models PC–12 and PC–12/45 airplanes. This proposal was published in the **Federal Register** as a supplemental notice of proposed rulemaking (NPRM) on April 23, 2003 (68 FR 19963). The supplemental NPRM proposed to require you to repetitively replace the nose landing gear (NLG) drag link right-hand part every 4,000 landings until an improved design NLG drag link right-hand part is installed. The NPRM also proposed to require you to install an improved design NLG drag link right-hand part as terminating action for the repetitive replacements.

Was the public invited to comment? The FAA encouraged interested persons to participate in the making of this amendment. The following presents the comments received on the proposal and FAA's response to each comment:

Comment Issue No. 1: Temporary Revision Incorporated in Aircraft Maintenance Manual

What is the commenter's concern? A commenter states that when the NPRM and the supplemental NPRM were issued that the reference to Temporary Revision No. 32–14, dated June 4, 2002, to Pilatus PC–12 Maintenance Manual 32–20–06, was correct. However, since issuance of the NPRMs, Pilatus has incorporated the temporary revision into the Pilatus PC–12 Maintenance Manual. The commenter recommends that FAA revise the reference to read the Pilatus PC–12 Maintenance Manual 32–20–06 instead of the temporary revision.

What is FAA's response to the concern? We concur with the commenter and for clarity and completeness will change the final rule AD action to incorporate this change.

Comment Issue No. 2: Use of Correct Service Bulletin

What is the commenter's concern? A commenter states that Pilatus has issued PC12 Service Bulletin No. 32–014, Revision No. 1, dated May 13, 2003, which includes minor changes. However, the commenter points out that compliance following either the original service bulletin or the revised service bulletin should be acceptable. Further, operators who do the work following the revised service bulletin should not need to request an alternative method of compliance (AMOC). The commenter recommends the final AD action include references to the original service bulletin and the revised service bulletin.

What is FAA's response to the concern? The FAA agrees and we are changing the final rule AD to provide for owners/operators who accomplish the work under either the original service bulletin or Revision 1 of the service bulletin.

FAA's Determination

What is FAA's final determination on this issue? We carefully reviewed all available information related to the subject presented above and determined that air safety and the public interest require the adoption of the rule as proposed except for the changes discussed above and minor editorial corrections. We have determined that these changes and minor corrections:

—Provide the intent that was proposed in the NPRM for correcting the unsafe condition; and

—Do not add any additional burden upon the public than was already proposed in the NPRM.

How does the revision to 14 CFR part 39 affect this AD? On July 10, 2002, FAA published a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs FAA's AD system. This regulation now includes material that relates to special flight permits, alternative methods of compliance, and altered products. This material previously was included in each individual AD. Since this material is included in 14 CFR part 39, we will not include it in future AD actions.

Cost Impact

How many airplanes does this AD impact? We estimate that this AD affects 265 airplanes in the U.S. registry.

What is the cost impact of this AD on owners/operators of the affected airplanes? We estimate the following costs to accomplish the replacement with the same design part:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
6 workhours × $60 per hour = $360	$1,000	$1,360	$1,360 × 265 = $360,400.

We estimate the following costs to accomplish the replacement with the improved design part:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
6 workhours × $60 per hour = $360	$2,200	$2,560	$2,560 × 265 = $678,400.

Compliance Time of This AD

What is the compliance time of this AD? The compliance time of this AD is based on the number of landings rather than hours TIS.

Why is the compliance time of this AD presented in landings? The reason for this type of compliance is that the area that is showing fatigue is the NLG drag link right-hand part. This area of the airplane is used during the landing operation. We have determined to base the compliance time for this AD upon the number of landings.

Since airplane operators are not required to keep track of landings, we will provide a method of calculating hours TIS into landings.

Regulatory Impact

Does this AD impact various entities? The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not

have federalism implications under Executive Order 13132.

Does this AD involve a significant rule or regulatory action? For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. FAA amends § 39.13 by adding a new AD to read as follows:

2003–14–07 Pilatus Aircraft Ltd.: Amendment 39–13226; Docket No. 2002–CE–51–AD.

(a) *What airplanes are affected by this AD?* This AD affects Models PC–12 and PC–12/45 airplanes, all serial numbers, that are certificated in any category.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the airplanes identified in paragraph (a) of this AD must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent structural failure of the nose landing gear (NLG) caused by fatigue damage to the NLG drag link right-hand part that develops over time. Such failure could result in either an unintended NLG extension during flight or the NLG not properly locking upon extension, which could lead to loss of airplane control during landing operations.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following:

Actions	Compliance	Procedures
(1) Replace the nose landing gear (NLG) drag link righthand part, part number (P/N) 532.20.12.140 with:.	Upon the accumulation of 4,000 landings on the nose landing gear (NLG) drag link right hand part or within the next 100 landings after September 5, 2003 (the effective date of this AD), whichever occurs later. Incorporation of the improved-design NLG drag link brace is terminating action for this AD.	In accordance with the Pilatus PC–12 the Maintenance Manual 32–20-06, pages 401 through 405, dated October 1, 2002.
(i) The same P/N 532.20.12.140 or FAA-approved equivalent part number; or.		
(ii) Improved design NLG drag link right-hand part, P/N 532.20.12.289.		
(2) If replacement in paragraph (d)(1) is with the original style part, replace with:.	Upon the accumulation of 4,000 landings. Incorporation of improved-design NLG drag link brace is terminating action for this AD.	In accordance with the Pilatus PC–12 Maintenance Manual 32–20-06, pages 401 through 405, dated October 1, 2002.
(i) The same P/N 532.20.12.140 or FAA-approved equivalent part number; or.		
(ii) Improved design NLG drag link right-hand part, P/N 532.20.12.289.		
(3) Unless already accomplished per paragraph (d)(1) or (d)(2), replace the NLG drag link right-hand part, P/N 532.20.12.140, with an improved design NLG drag link right-hand part, P/N 532.20.12.289 or FAA-approved equivalent part number. Installing the improved part number terminates the repetitive replacement requirements of paragraph (d)(2) of this AD.	At the third replacement required in paragraph (d)(2) of this AD.	In accordance with either Pilatus Aircraft Ltd. PC12 Service Bulletin No. 32–014, dated August 13, 2002, or Pilatus Aircraft Ltd. PC12 Service Bulletin No. 32–014, Revision No. 1, dated May 13, 2003, and the Pilatus PC–12 Maintenance Manual.
(4) Do not install, on any affected airplane, an NLG drag link right-hand part that is not P/N 532.20.12.289 or FAA-approved equivalent part number.	When an improved P/N 532.20.12.289 NLG drag link part is installed after the effective date of this AD.	Not Applicable.

(e) *What if I do not keep track of landings*? The compliance times of this AD are presented in landings instead of hours time-in-service (TIS). If landings are not known, hours TIS may be used by dividing the numbers of hours TIS by the unknown landings factor (0.75).

Note 1: For the purposes of this AD, 3,000 hours TIS would be equivalent to 4,000 landings (3,000 hours/0.75 = 4,000 landings).

(f) *Can I comply with this AD in any other way*? To use an alternative method of compliance or adjust the compliance time, use the procedures in 14 CFR 39.19. Send these requests to the Standards Office Manager, Small Airplane Directorate. Contact Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090 for information on any already approved alternative methods of compliance.

(g) *Are any service bulletins incorporated into this AD by reference*? Actions required by this AD must be done in accordance with either Pilatus Aircraft Ltd. PC12 Service Bulletin No. 32–014, dated August 13, 2002, or Pilatus Aircraft Ltd. PC12 Service Bulletin No. 32–014, Revision No. 1, dated May 13, 2003; and Pilatus PC–12 Maintenance Manual 32–20–06, pages 401 through 405, dated October 1, 2002. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You may get copies from Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 63 19; facsimile: +41 41 619 6224; or from Pilatus Business Aircraft Ltd., Product Support Department, 11755 Airport Way, Broomfield, Colorado 80021; telephone: (303) 465–9099; facsimile: (303) 465–6040. You may view copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the *Office of the Federal Register*, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 2: The subject of this AD is addressed in Swiss AD Number HB 2002–271, dated June 17, 2002.

(h) *When does this amendment become effective*? This amendment becomes effective on September 5, 2003.

Issued in Kansas City, Missouri, on July 7, 2003.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–17566 Filed 7–15–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NE–23–AD; Amendment 39–13210; AD 2003–13–10]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Corporation (formerly Allison Engine Company, Allison Gas Turbine Division, and Detroit Diesel Allison) Models 250–C30R/3, –C30R/3M, –C47B, and –C47M Turboshaft Engines; Correction

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments, correction.

SUMMARY: This document makes a correction to Airworthiness Directive (AD) 2003–13–10, applicable to Rolls-Royce Corporation (formerly Allison Engine Company, Allison Gas Turbine Division, and Detroit Diesel Allison) Models 250–C30R/3, –C30R/3M, –C47B, and –C47M turboshaft engines. AD 2003–13–10 was published in the **Federal Register** on June 30, 2003 (68 FR 38590). In the compliance section, paragraph (f) incorrectly references a compliance date of July 15, 2003 and should reference a compliance date of July 31, 2003. This document corrects that date. In all other respects, the original document remains the same.

EFFECTIVE DATE: July 15, 2003.

FOR FURTHER INFORMATION CONTACT: Khailaa Hosny, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, 2300 East Devon Avenue, Des Plaines, IL 60018–4696; telephone (847) 294–7134; fax (847) 294–7834.

SUPPLEMENTARY INFORMATION: A final rule; request for comments airworthiness directive FR DOC. 03–15993, applicable to Rolls-Royce Corporation (formerly Allison Engine Company, Allison Gas Turbine Division, and Detroit Diesel Allison) Models 250–C30R/3, –C30R/3M, –C47B, and –C47M turboshaft engines, was published in the **Federal Register** on June 30, 2003 (68 FR 38590). The following correction is needed:

On page 38592, in the first column, under Initial Inspection heading, paragraph (f), fifth line, which reads ''no later than July 15, 2003, in accordance * * *'' is corrected to read ''no later than July 31, 2003, in accordance * * *''.

Issued in Burlington, MA, on July 10, 2003.

Francis A. Favara,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 03–17950 Filed 7–15–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 9076]

RIN 1545–AX34

Special Rules Under Section 417(a)(7) for Written Explanations Provided by Qualified Retirement Plans After Annuity Starting Dates

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the special rule added by the Small Business Job Protection Act of 1996 which permits the required written explanations of certain benefits to be provided by qualified retirement plans to plan participants after the annuity starting date. These final regulations affect sponsors and administrators of qualified retirement plans, and participants in those plans.

DATES: Effective Date: These regulations are effective July 16, 2003.

Applicability Date: These regulations apply to plan years beginning on or after January 1, 2004.

FOR FURTHER INFORMATION CONTACT: Robert Walsh (202) 622–6090 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545–1724.

The collection of information in this final regulation is in § 1.417(e)–1(b)(3)(iv)(B) and § 1.417(e)–1(b)(3)(v)(A). This collection of information is required by the IRS to ensure that the participant and the participant's spouse consent to a form of distribution from a qualified retirement plan that may result in reduced periodic payments.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, W:CAR:MP:T:T:SP, Washington, DC 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Books or records relating to a collection of information must be retained as long as their contents might become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

This document contains amendments to 26 CFR part 1 under section 417(a)(7). On January 17, 2001, a notice of proposed rulemaking (REG–109481–99) was published in the **Federal Register** (66 FR 3916) under section 417(a)(7) of the Internal Revenue Code. No public hearing was requested or held. Written comments responding to the notice of proposed rulemaking were received. After consideration of all the comments, the proposed regulations are adopted as amended by this Treasury decision.

Section 401(a)(11) of the Internal Revenue Code provides that, subject to certain exceptions, all distributions from a qualified plan must be made in the form of a qualified joint and survivor annuity (QJSA). One such exception is provided in section 417, which allows a participant to elect to waive the QJSA in favor of another form of distribution. Section 417(a)(2) provides that, for the waiver to be valid, the participant's spouse must consent to the waiver. Section 417(a)(3)(A) requires a qualified plan to provide to each participant, within a reasonable period of time before the annuity starting date, a written explanation (QJSA explanation) that describes the QJSA, the right to waive the QJSA, and the rights of the participant's spouse.

Section 417(a)(7), which was added to the Code by section 1451(a) of the Small Business Job Protection Act of 1996,

Public Law 104–188 (110 Stat. 1755) (SBJPA), creates an exception to the rules of section 417(a)(3)(A), effective for plan years beginning after December 31, 1996. Section 417(a)(7)(A) provides that, notwithstanding any other provision of section 417(a), a plan may furnish the QJSA explanation after the annuity stating date, as long as the applicable election period is extended for at least 30 days after the date on which the explanation is furnished. Thus, section 417(a)(7)(A) allows the annuity starting date to be a date that is earlier than the date the QJSA explanation is provided, thereby allowing the retroactive payment of benefits that are attributable to the period before the QJSA explanation is provided. Section 417(a)(7)(A)(ii) provides that the Secretary may limit the application of the provision permitting the selection of a retroactive annuity starting date by regulations, except that the regulations may not limit the period of time by which the annuity starting date precedes the furnishing of the written explanation other than by providing that the retroactive annuity starting date may not be earlier than termination of employment.

Section 205(c)(8) of the Employee Retirement Income Security Act of 1974, Public Law 93–406 (88 Stat. 829) (ERISA), provides a parallel rule to section 417(a)(7) of the Code that applies under Title I of ERISA, and authorizes the Secretary of the Treasury to issue regulations limiting the application of the general rule. Thus, Treasury regulations issued under section 417(a)(7) of the Code apply as well for purposes of section 205(c)(8) of ERISA.

Explanation of Provisions

In accordance with section 417(a)(7)(A), these regulations provide that the QJSA explanation may be furnished on or after the annuity starting date under certain circumstances. The regulations refer to the annuity starting date in such cases as the ''retroactive annuity starting date'', define how payments are made in the case of a retroactive annuity starting date, and set conditions for the use of a retroactive annuity starting date.

Like the proposed regulations, the final regulations provide that a retroactive annuity starting date may be used only if the plan provides for it and the participant affirmatively elects to use the retroactive annuity starting date. If a participant affirmatively elects a retroactive annuity starting date, the participant must be put in approximately the same situation he or she would have been in had benefit payments actually commenced on the retroactive annuity starting date. Accordingly, in the case where a participant affirmatively elects a retroactive annuity starting date, the plan benefits must be determined as of that retroactive annuity starting date (including the application of section 415 and, if applicable, section 417(e)(3) as of that retroactive annuity starting date). If the plan benefits are determined in that manner, future periodic payments for a participant who elects a retroactive annuity starting date will be the same as the periodic payments that would have been paid to the participant had payments actually commenced on the retroactive annuity starting date. In addition, the participant must receive a make-up amount to reflect any missed payments (with an appropriate adjustment for interest from the date the payments would have been made to the date of actual payment).

Several commentators suggested that an adjustment for interest should not be required where the period between the retroactive annuity starting date and the date payments begin was less than three or four months. It was argued that the requirement of an interest adjustment in such a case may create burdens for the plan that are more significant that the additional money that may be paid to the participant. The Treasury Department and the IRS continue to believe that an appropriate adjustment for interest is needed for make-up payments. Thus, the final regulations retain the rule that an appropriate adjustment is required for make-up payments. The extent to which an adjustment is appropriate for a particular make-up payment depends on the facts and circumstances related to that payment.

The final regulations retain the rules from the proposed regulations that provide that the notice, consent, and election rules of section 417(a)(1), (2), and (3) apply to the retroactive payment of benefits but with several modifications. These modifications generally reflect the fact that the existing timing rules relating to notice and consent are generally determined with reference to an annuity starting date that is after the furnishing of the QJSA explanation by a period of up to 90 days.[1] If legislation currently pending in Congress changing the 90-day QJSA election period to 180 days is enacted, it is anticipated that the regulations will be modified to reflect that change.

The final regulations also retain the special spousal consent rule provided for under the proposed regulations. Under this special rule, the participant's spouse as of the time distributions actually commence must consent to the retroactive annuity starting date election, if the survivor payments under the retroactive annuity are less than under a QJSA with an annuity starting date after the date the QJSA explanation was provided. This special rule applies even if the form of benefit that the participant elects as of the retroactive annuity starting date is a QJSA. Thus, for example, where a QJSA that begins after the QJSA explanation is furnished would provide $1,000 monthly to the participant with a survivor annuity of $500 monthly to the spouse, and a QJSA with a retroactive annuity starting date would provide $900 monthly to the participant with a survivor annuity of $450 monthly to the spouse, together with a $20,000 make-up payment to the participant, the participant would be required to obtain the consent of the current spouse in order to elect the retroactive annuity starting date. Spousal consent would be required in this example because the spouse has a statutory entitlement to a survivor benefit of at least $500 per month under a QJSA with a current annuity starting date.

Various comments were received regarding this spousal consent requirement. For example, it was suggested that spousal consent should not be required in the cases of short delay if the QJSA form is elected, or where the survivor benefit under the retroactive annuity starting date is at least 95% of the survivor annuity payable under a current QJSA, because requiring consent in such a case would create additional work and confusion and result in little benefit to the spouse. The regulations are not changed in this regard, as the Treasury Department and the IRS believe that spousal protection cannot be diminished below the statutorily prescribed QJSA without spousal consent. However, these regulations provide that such consent is only necessary where the survivor annuity is less than 50% of the amount of the annuity payable during the life of the participant under a currently commencing QJSA. Thus, in the

[1] For example, section 417(a)(1) provides that a participant may elect to waive the QJSA within the ''applicable election period'' which is defined by section 417(a)(6) as the 90-day period ending on the annuity starting date. Similarly, § 1.417(e)–1(b)(3)(i) provides that the written consent of the plan participant and the participant's spouse must be made no more than 90 days before the annuity starting date. Also, § 1.417(e)–1(b)(3)(ii) provides that the QJSA explanation must generally be provided no less than 30 days and no more than 90 days before the annuity starting date.

example provided above, if the participant elected a QJSA with a retroactive annuity starting date and a 66⅔% survivor annuity, the QJSA would provide $840 monthly to the participant with a survivor annuity of $560 to the participant's spouse and a make-up payment of $18,666. Spousal consent is not required in such a case because the $560 survivor annuity exceeds the minimum permissible under a currently commencing QJSA.

The proposed regulations impose an additional condition on the availability of a retroactive annuity starting date, regarding the permissible amount of the distribution under sections 417(e)(3) (if applicable) and 415. To satisfy this condition, the distribution must be adjusted, if necessary, to satisfy the requirements of sections 417(e)(3) (if applicable) and 415 where the date the distribution commences is substituted for the annuity starting date.

Several comments raised concerns regarding the requirement that sections 415 and 417(e)(3) be satisfied as of the date of distribution as well as the retroactive annuity starting date. Some commentators suggested that testing whether the distributions satisfy section 415 as of the date of distribution could be particularly restrictive for multiemployer plans. The commentators noted, for example, that for a participant who left covered service under a multiemployer plan at age 60 and retires at age 68 under a plan with an age-62 normal retirement age, the amount payable in the year of benefit commencement, as calculated for purposes of section 415, could well be higher than 100% of that participant's average compensation for his high three years and thus would violate section 415.[2]

The IRS and Treasury Department believe this second test is generally needed to stop participants from using the retroactive annuity starting date as a means of receiving benefits in excess of the section 415 limits. However, the IRS and Treasury Department have weighed the importance of compliance with this requirement against the associated burdens and have concluded that testing for section 415 compliance as of the date distributions commence may not be needed in every case. Thus, the final regulations do not apply the requirement that satisfaction of the benefit limitations of section 415 be demonstrated as of the date distributions commence in the case of a distribution that commences no more than twelve months after the retroactive annuity starting date, unless the form of benefit (as of the retroactive annuity starting date) is a form of benefit subject to the valuation rules of section 417(e)(3). For example, in the case of a life annuity distribution, compliance with section 415 need not be demonstrated as of the date of distribution where that date is no more than twelve months after the retroactive annuity starting date. However, if the distribution were a single sum distribution, compliance with section 415 would need to be tested as of the actual commencement date.

Some commentators also objected to the rule in the proposed regulation that required the plan to comply with the valuation rules of section 417(e)(3) as of the date of distribution. The IRS and Treasury Department continue to believe that a participant should not be receiving a smaller lump sum through the election of a retroactive annuity starting date than would be available for a current annuity starting date. Accordingly, these regulations adopt the rules of the proposed regulations regarding the requirements of section 417(e)(3) with a clarification relating to the application of section 417(e)(3). Under this clarification, in the case of a form of benefit that would have been subject to section 417(e)(3) if distributions had commenced as of the retroactive annuity starting date, the distribution pursuant to a retroactive annuity starting date election must be no less than the distribution produced by applying the applicable interest rate and the applicable mortality table determined as of the date the distribution commences to the annuity form that corresponds to the annuity form that was used to determine the benefit amount as of the retroactive annuity starting date. Thus, for example, if a distribution paid pursuant to an election of a retroactive annuity starting date is a single-sum distribution that is based on the present value of the straight life annuity payable at normal retirement age, then the amount of the distribution must be no less than the present value of the annuity payable at normal retirement age, determined as of the distribution date using the applicable mortality table and applicable interest rate that apply as of the distribution date. Likewise, if a distribution paid pursuant to an election of a retroactive annuity starting date is a single-sum distribution that is based on the present value of the early retirement annuity payable as of the retroactive annuity starting date, then the amount of the distribution must be no less than the present value of the early retirement annuity payable as of the distribution date, determined as of the distribution date using the applicable mortality table and applicable interest rate that apply as of the distribution date.

The final regulations retain the rule of the proposed regulations that the determination of whether the valuation rules of section 417(e)(3) apply is based upon the benefit form as of the retroactive annuity starting date. Accordingly, a distribution option that is a non-decreasing benefit under § 1.417(e)–1(d)(6) does not become subject to the valuation rules of section 417(e)(3) merely because of the make-up payments for the period between the retroactive annuity starting date and the date distributions actually commence.

Similarly, the final regulations provide that annuity payments that otherwise satisfy the requirements for a QJSA under section 417(b) will not fail to be treated as a QJSA for purposes of section 415(b)(2)(B) because a retroactive annuity starting date is elected and a make-up payment is made. Further, to address concerns raised by commentators, these regulations provide that plan distributions may be considered to be a series of substantially equal periodic payments for purposes of section 72(t)(2)(A)(iv) even though the plan distributes a make-up payment to a participant who has elected a retroactive annuity starting date.

One commentator suggested that make-up payments made pursuant to a retroactive annuity starting date should be considered to be part of a series of substantially equal periodic payments for purposes of the eligible rollover distribution definition of section 402(c)(4)(A). However, these regulations do not address this issue. Section 1.402(c)–2, Q&A–6 provides that an adjustment in a payment that is part of a series of substantially equal periodic payments will be treated as part of the series of substantially equal periodic payments for purposes of section 402(c)(4)(A) where the adjustment was due solely to reasonable administrative error or delay. To ensure that any rule applicable to make-up payments under this regulation is consistent with the rules generally applicable to independent payments under Q&A–6, the IRS and Treasury Department anticipate reviewing these rules and issuing guidance.

Two commentators suggested that defined contribution plans should be allowed to adopt provisions for

[2] After the comments relating to multiemployer plans were received, section 415(b)(11) was amended by the Economic Growth and Tax Relief Reconciliation Act of 2001, Public Law No. 107–16, to provide that the 100% test of section 415(b)(1)(B) no longer applies to multiemployer plans.

retroactive annuity starting dates. One of these commentators suggests that the proposed regulations would prohibit a defined contribution plan from making payments to cover amounts that were unpaid due to an administrative oversight. This commentator adds that such a prohibition may cause the plan to fail to provide required distributions under section 401(a)(9). The IRS and Treasury Department continue to believe that the rules applicable to retroactive annuity starting dates are relevant only to defined benefit plans because the benefit provided by a defined contribution plan is equal to the account balance and the concerns addressed in these regulations are generally not relevant in such a case. Moreover, the problem raised by the commentator appears to relate to an administrative delay in making a payment (which is an issue covered under § 1.401(a)–20, A–10(b)(3)), rather than the topic of these regulations. In any event, a plan must provide all distributions required by section 401(a)(9) and these regulations do not affect that requirement.

One commentator noted that some plans currently allow retroactive annuity starting dates in reliance upon a good faith interpretation of the statute and existing regulations. This commentator suggested that some of the sponsors of these plans may not wish to provide retroactive annuity starting dates in light of these regulations and requested that the IRS and Treasury Department confirm that plan sponsors who currently allow retroactive annuity starting dates will not violate the anti-cutback rules of section 411(d)(6) if they choose to amend these plans to restrict the availability of retroactive annuity starting dates in the future. The issues raised in this comment are not addressed in this Treasury decision. It is anticipated that such plan amendments will be governed by regulations to be issued under section 411(d)(6) pursuant to section 645 of the Economic Growth and Tax Relief Reconciliation Act of 2001, Public Law 107–16 (115 Stat. 117).

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that the regulations require the collection of plan participants' written elections requesting qualified retirement plan distributions, and written spousal consent to these distributions, under limited circumstances. It is anticipated that most small businesses affected by these regulations will be sponsors of qualified retirement plans. Since these written participant elections and written spousal consents are required to be collected only for certain distributions, and since, in the case of a small plan, there will be relatively few distributions per year (and even fewer that are subject to these requirements), small plans that provide distributions for which this collection of information is required will only have to collect a small number of participant elections and spousal consents as a result of these regulations. Accordingly, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal authors of these regulations are Robert M. Walsh and Linda S. F. Marshall, Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the IRS and Treasury participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read, in part, as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.417(e)–1(b)(3) also issued under 26 U.S.C. 417(a)(7)(A)(ii); * * *

■ **Par. 2.** Section 1.417(e)–1 is amended by:

■ 1. Revising paragraphs (b)(3)(i), (b)(3)(ii) introductory text, and (b)(3)(ii)(C).

■ 2. Redesignating paragraphs (b)(3)(iii) and (b)(3)(iv) as paragraphs (b)(3)(viii) and (b)(3)(ix), respectively.

■ 3. Adding new paragraphs (b)(3)(iii) through (b)(3)(vii).

The additions and revisions read as follows:

1.417(e)–1 Restrictions and valuations of distributions from plans subject to sections 401(a)(11) and 417.

* * * * *

(b) * * *

(3) * * * (i) Written consent of the participant and the participant's spouse to the distribution must be made not more than 90 days before the annuity starting date, and, except as otherwise provided in paragraphs (b)(3)(iii) and (b)(3)(iv) of this section, no later than the annuity starting date.

(ii) A plan must provide participants with the written explanation of the QJSA required by section 417(a)(3) no less than 30 days and no more than 90 days before the annuity starting date, except as provided in paragraph (b)(3)(iv) of this section regarding retroactive annuity starting dates. However, if the participant, after having received the written explanation of the QJSA, affirmatively elects a form of distribution and the spouse consents to that form of distribution (if necessary), a plan will not fail to satisfy the requirements of section 417(a) merely because the written explanation was provided to the participant less than 30 days before the annuity starting date, provided that the following conditions are met:

* * * * *

(C) The annuity starting date is after the date that the explanation of the QJSA is provided to the participant.

* * * * *

(iii) The plan may permit the annuity starting date to be before the date that any affirmative distribution election is made by the participant (and before the date that distribution is permitted to commence under paragraph (b)(3)(ii)(D) of this section), provided that, except as otherwise provided in paragraph (b)(3)(vii) of this section regarding administrative delay, distributions commence not more than 90 days after the explanation of the QJSA is provided.

(iv) *Retroactive annuity starting dates.* (A) Notwithstanding the requirements of paragraphs (b)(3)(i) and (ii) of this section, pursuant to section 417(a)(7), a defined benefit plan is permitted to provide benefits based on a retroactive annuity starting date if the requirements described in paragraph (b)(3)(v) of this section are satisfied. A defined benefit plan is not required to provide for retroactive annuity starting dates. If a plan does provide for a retroactive annuity starting date, it may impose conditions on the availability of a

retroactive annuity starting date in addition to those imposed by paragraph (b)(3)(v) of this section, provided that imposition of those additional conditions does not violate any of the rules applicable to qualified plans. For example, a plan that includes a single sum payment as a benefit option may limit the election of a retroactive annuity starting date to those participants who do not elect the single sum payment. A defined contribution plan is not permitted to have a retroactive annuity starting date.

(B) For purposes of this section, a ''retroactive annuity starting date'' is an annuity starting date affirmatively elected by a participant that occurs on or before the date the written explanation required by section 417(a)(3) is provided to the participant. In order for a plan to treat a participant as having elected a retroactive annuity starting date, future periodic payments with respect to a participant who elects a retroactive annuity starting date must be the same as the future periodic payments, if any, that would have been paid with respect to the participant had payments actually commenced on the retroactive annuity starting date. The participant must receive a make-up payment to reflect any missed payment or payments for the period from the retroactive annuity starting date to the date of the actual make-up payment (with an appropriate adjustment for interest from the date the missed payment or payments would have been made to the date of the actual make-up payment). Thus, the benefit determined as of the retroactive annuity starting date must satisfy the requirements of sections 417(e)(3), if applicable, and section 415 with the applicable interest rate and applicable mortality table determined as of that date. Similarly, a participant is not permitted to elect a retroactive annuity starting date that precedes the date upon which the participant could have otherwise started receiving benefits (*e.g.*, in the case of an ongoing plan, the earlier of the participant's termination of employment or the participant's normal retirement age) under the terms of the plan in effect as of the retroactive annuity starting date. A plan does not fail to treat a participant as having elected a retroactive annuity starting date as described in this paragraph (b)(3)(iv)(B) merely because the distributions are adjusted to the extent necessary to satisfy the requirements of paragraph (b)(3)(v)(B) and (C) of this section relating to sections 415 and 417(e)(3).

(C) If the participant's spouse as of the retroactive annuity starting date would not be the participant's spouse determined as if the date distributions commence was the participant's annuity starting date, consent of that former spouse is not needed to waive the QJSA with respect to the retroactive annuity starting date, unless otherwise provided under a qualified domestic relations order (as defined in section 414(p)).

(D) A distribution payable pursuant to a retroactive annuity starting date election is treated as excepted from the present value requirements of paragraph (d) of this section under paragraph (d)(6) of this section if the distribution form would have been described in paragraph (d)(6) of this section had the distribution actually commenced on the retroactive annuity starting date. Similarly, annuity payments that otherwise satisfy the requirements of a QJSA under section 417(b) will not fail to be treated as a QJSA for purposes of section 415(b)(2)(B) merely because a retroactive annuity starting date is elected and a make-up payment is made. Also, for purposes of section 72(t)(2)(A)(iv), a distribution that would otherwise be one of a series of substantially equal periodic payments will be treated as one of a series of substantially equal periodic payments notwithstanding the distribution of a make-up payment provided for in paragraph (b)(3)(iv)(B) of this section.

(E) The following example illustrates the application of paragraph (b)(3)(iv)(D) of this section:

Example. Under the terms of a defined benefit plan, participant A is entitled to a QJSA with a monthly payment of $1,500 beginning as of his annuity starting date. Due to administrative error, the QJSA explanation is provided to A after the annuity starting date. After receiving the QJSA explanation A elects a retroactive annuity starting date. Pursuant to this election, A begins to receive a monthly payment of $1,500 and also receives a make-up payment of $10,000. Under these circumstances the monthly payments may be treated as a QJSA for purposes of section 415(b)(2)(B). In addition, the monthly payments of $1,500 and the make-up payment of $10,000 may be treated as part of as series of substantially equal periodic payments for purpose of section 72(t)(2)(A)(iv).

(v) *Requirements applicable to retroactive annuity starting dates.* A distribution is permitted to have a retroactive annuity starting date with respect to a participant's benefit only if the following requirements are met:

(A) The participant's spouse (including an alternate payee who is treated as the spouse under a qualified domestic relations order (QDRO), as defined in section 414(p)), determined as if the date distributions commence were the participant's annuity starting date, consents to the distribution in a manner that would satisfy the requirements of section 417(a)(2). The spousal consent requirement of this paragraph (b)(3)(v)(A) is satisfied if such spouse consents to the distribution under paragraph (b)(2)(i) of this section. The spousal consent requirement of this paragraph (b)(3)(v)(A) does not apply if the amount of such spouse's survivor annuity payments under the retroactive annuity starting date election is no less than the amount that the survivor payments to such spouse would have been under an optional form of benefit that would satisfy the requirements to be a QJSA under section 417(b) and that has an annuity starting date after the date that the explanation was provided.

(B) The distribution (including appropriate interest adjustments) provided based on the retroactive annuity starting date would satisfy the requirements of section 415 if the date the distribution commences is substituted for the annuity starting date for all purposes, including for purposes of determining the applicable interest rate and the applicable mortality table. However, in the case of a form of benefit that would have been excepted from the present value requirements of paragraph (d) of this section under paragraph (d)(6) of this section if the distribution had actually commenced on the retroactive annuity starting date, the requirement to apply section 415 as of the date distribution commences set forth in this paragraph (b)(3)(v)(B) does not apply if the date distribution commences is twelve months or less from the retroactive annuity starting date.

(C) In the case of a form of benefit that would have been subject to section 417(e)(3) and paragraph (d) of this section if distributions had commenced as of the retroactive annuity starting date, the distribution is no less than the benefit produced by applying the applicable interest rate and the applicable mortality table determined as of the date the distribution commences to the annuity form that corresponds to the annuity form that was used to determine the benefit amount as of the retroactive annuity starting date. Thus, for example, if a distribution paid pursuant to an election of a retroactive annuity starting date is a single-sum distribution that is based on the present value of the straight life annuity payable at normal retirement age, then the amount of the distribution must be no less than the present value of the annuity payable at normal retirement age, determined as of the distribution date using the applicable mortality table and applicable interest rate that apply as of the distribution date. Likewise, if a distribution paid pursuant to an election

of a retroactive annuity starting date is a single-sum distribution that is based on the present value of the early retirement annuity payable as of the retroactive annuity starting date, then the amount of the distribution must be no less than the present value of the early retirement annuity payable as of the distribution date, determined as of the distribution date using the applicable mortality table and applicable interest rate that apply as of the distribution date.

(vi) *Timing of notice and consent requirements in the case of retroactive annuity starting dates.* In the case of a retroactive annuity starting date, the date of the first actual payment of benefits based on the retroactive annuity starting date is substituted for the annuity starting date for purposes of satisfying the timing requirements for giving consent and providing an explanation of the QJSA provided in paragraphs (b)(3)(i) and (ii) of this section, except that the substitution does not apply for purposes of paragraph (b)(3)(iii) of this section. Thus, the written explanation required by section 417(a)(3)(A) must generally be provided no less than 30 days and no more than 90 days before the date of the first payment of benefits and the election to receive the distribution must be made after the written explanation is provided and on or before the date of the first payment. Similarly, the written explanation may also be provided less than 30 days prior to the first payment of benefits if the requirements of paragraph (b)(3)(ii) of this section would be satisfied if the date of the first payment is substituted for the annuity starting date.

(vii) *Administrative delay.* A plan will not fail to satisfy the 90-day timing requirements of paragraphs (b)(3)(iii) and (vi) of this section merely because, due solely to administrative delay, a distribution commences more than 90 days after the written explanation of the QJSA is provided to the participant.

* * * * *

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

■ **Par. 3.** The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

■ **Par. 4.** In § 602.101, paragraph (b) is amended by adding the following entry in numerical order to the table to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB control No.
* * * * *	
1.417(e)–1	1545–1724
* * * * *	

Robert E. Wenzel,

Deputy Commissioner for Services and Enforcement.

Approved: July 9, 2003.

Pamela Olson,

Assistant Secretary of the Treasury.

[FR Doc. 03–17869 Filed 7–15–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

[KY–242–FOR]

Kentucky Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; withdrawal of required amendment.

SUMMARY: We are withdrawing a required amendment to the Kentucky regulatory program (the Kentucky program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The required amendment concerns the determination of the premining use of land that was not previously mined. In doing so, we find that the Kentucky program is no less effective than the corresponding Federal regulations.

EFFECTIVE DATE: July 16, 2003.

FOR FURTHER INFORMATION CONTACT: Kentucky Field Office Director William J. Kovacic. Telephone: (859) 260–8402; Internet address: *wkovacic@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Kentucky Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, ''a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act.'' *See* 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Kentucky program on May 18, 1982.

You can find background information on the Kentucky program, including the Secretary's findings, the disposition of comments, and conditions of approval in the May 18, 1982, **Federal Register** (47 FR 21426). You can also find later actions concerning Kentucky's program and program amendments at 30 CFR 917.12, 917.13, 917.15, 917.16 and 917.17.

II. Submission of the Required Amendment

On October 1, 1992, we published, in the **Federal Register** (57 FR 45295), a requirement that Kentucky amend their program to provide that in determining premining uses of land not previously mined, the land must have been properly managed. We codified the required amendment in the Federal regulations at 30 CFR 917.16(g). Subsequent review of Kentucky's program led to our determination that this requirement may not be necessary to assure that Kentucky's program is as effective as the Federal regulations. We announced our intent to reconsider this required amendment in the April 29, 2003, **Federal Register** (68 FR 22646). In the same document, we invited public comment on the proposed removal of the required amendment. The public comment period closed on May 29, 2003. We received comments from one Federal agency.

III. OSM's Findings

Following are the findings we made concerning the proposed removal of the required amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17.

The Kentucky regulations at 405 Kentucky Administrative Regulations (KAR) 16:210 and 405 KAR 18:220 Section 1 (1)(a) and (b) currently provide:

> Prior to the final release of performance bond, affected areas shall be restored in a timely manner:
>
> (a) To conditions capable of supporting the uses which the areas were capable of supporting before any mining; or
>
> (b) To conditions capable of supporting higher or better alternative uses as approved by the cabinet under Section 4 of this administrative regulation.

These provisions are no less effective than their Federal counterparts at 30 CFR 816.133(a) and 817.133(a). The State regulations at 405 KAR 16:210 Section 2(1) states in relevant part, ''the premining use of land to which the postmining land use is compared shall be those uses which the land previously supported if the land has not been previously mined.'' When Kentucky submitted this change in 1992, OSM indicated that, ''[t]his rule, while similar to the Federal rule at 30 CFR 816.133(b), fails to provide that a postmining land use must be compared to premined land which was properly managed, as set forth in the cited Federal rule''. [October 1, 1992, **Federal Register** (57 FR 45295, 45300)]. When OSM determined that the Kentucky rule was less effective, to the extent Kentucky failed to require a comparison to a premining land use that was properly managed, OSM required an amendment. The required amendment at 30 CFR 917.16(g) requires Kentucky to submit proposed revisions to its regulations to provide that in determining premining uses of land not previously mined, the land must have been properly managed.

We find, as discussed below, that the Kentucky program as it currently exists is no less effective than the Federal regulations and that the required amendment at 30 CFR 917.16(g) can be removed.

The Kentucky program, like the Federal regulations at 30 CFR 816.133(a) and 817.133(a), requires that all disturbed areas be restored in a timely manner to conditions that are capable of supporting either the uses that they were capable of supporting before any mining or any approved higher or better uses. (The Kentucky program also extends this requirement to all affected areas and does not limit it to disturbed areas.) In general, compliance with this requirement rests on a determination that the site has been restored to a condition capable of supporting the approved postmining land use. This determination consists primarily of two components: (1) Site configuration, which is addressed by the backfilling and grading regulations and is not dependent upon premining land use or management; and (2) revegetation success.

As authorized by 30 CFR 816.116 and 816.117, the Kentucky program (*see* 405 KAR 16:200/18:200 Section 5) relies primarily upon technical standards (ground cover; productivity standards; and tree and shrub stocking standards) to evaluate revegetation success for the various postmining land use categories. These technical standards for ground cover, stocking, and production are not site specific and apply regardless of how the land was used or managed before mining. The technical standards are based on accepted management practices for the land use in question.

Further, Kentucky's rules allow the use of reference areas to evaluate revegetation success. These references must be on unmined areas and as close to the permit area as possible. Under 405 KAR 16:200/18:200 Section 7, reference areas must be managed in accordance with the regional norm for the approved postmining land use. Regional norms would not be considered improper management practices for purposes of determining whether the land has been restored to its premining capability.

For these reasons, we find that, with respect to the provision at issue in 30 CFR 917.16(g), Kentucky's program is no less stringent than SMCRA and no less effective than the Federal regulations implementing SMCRA. Therefore, we are removing the required amendment at 30 CFR 917.16(g).

IV. Summary and Disposition of Comments

Public Comments

No public comments were received on this proposed action.

Federal Agency Comments

Under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, on April 29, 2003, we requested comments on the proposed removal of the required amendment at 30 CFR 917.16(g). We received one Federal Agency comment. On May 14, 2003, we received a comment from the U.S. Department of Labor's Mine Safety and Health Administration (MSHA) (Administrative Record No. KY–1579). The letter indicated that upon review of the proposed removal of the required amendment, MSHA has determined that there will be no impact of concern to their office.

On June 16, 2003, the USFWS contacted the Lexington Field Office and informed them that they would have no comments.

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(i) and (ii), we are required to get a written concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). This amendment does not pertain to air or water quality standards. Therefore, we did not ask the EPA for their concurrence or comment.

V. OSM's Decision

Based on the above finding, we are removing the required amendment to Kentucky's program relating to the determination of premining uses of land not previously mined having to be properly managed.

To implement this decision, we are amending the Federal regulations at 30 CFR part 917, which codify decisions concerning the Kentucky program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the State's program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. Making this regulation effective immediately will expedite that process. SMCRA requires consistency of State and Federal standards.

VI. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the

roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally-recognized Indian tribes and have determined that the rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between Federal Government and Indian tribes. The basis for this determination is that our decision is on a State regulatory program and does not involve a Federal program involving Indian tribes.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 that requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons previously stated, this rule: (a) Does not have an annual effect on the economy of $100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 917

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 27, 2003.

Brent Wahlquist,

Regional Director, Appalachian Regional Coordinating Center.

■ For the reasons set out in the preamble, 30 CFR Part 917 is amended as set forth below:

PART 917—KENTUCKY

■ 1. The authority citation for Part 917 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

§ 917.16 [Amended]

■ 2. Section 917.16 is amended by removing and reserving paragraph (g).

[FR Doc. 03–17966 Filed 7–15–03; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 26, 161, 164, and 165

[USCG–2003–14757]

RIN 1625–AA67

Automatic Identification System; Vessel Carriage Requirement; Correction

AGENCY: Coast Guard, DHS.

ACTION: Correcting amendments.

SUMMARY: On July 1, 2003, the Coast Guard published a temporary interim rule with request for comments and notice of meeting in the **Federal Register** concerning the implementation of Automatic Identification Systems (AIS). This document contains corrections to that rule.

DATES: Effective on July 1, 2003.

FOR FURTHER INFORMATION CONTACT: For information concerning this document, write or call Mr. Jorge Arroyo, Office of Vessel Traffic Management (G–MWV), U.S. Coast Guard by telephone 202–267–1103, toll-free telephone 1–800–842–8740 ext. 7–1103, or by electronic mail *msregs@comdt.uscg.mil.* If you have questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, at telephone 202–366–5149.

SUPPLEMENTARY INFORMATION: The Coast Guard published a temporary interim rule with request for comments and notice of meeting in the **Federal**

Register on July 1, 2003, (68 FR 39353). The rule contained typographical errors and omissions that may prove to be misleading and therefore need to be corrected.

Corrections to the Regulatory Text

PART 26—VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE REGULATIONS

■ 1. Correct part 26 by revising the authority citation to read as follows:

Authority: 14 U.S.C. 2; 33 U.S.C. 1201–1208; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1; Rule 1, International Regulations for the Prevention of Collisions at Sea.

PART 161—VESSEL TRAFFIC MANAGEMENT

■ 2. Correct part 161 by revising the authority citation to read as follows:

Authority: 33 U.S.C. 1223, 1231; 46 U.S.C. 70114, 70117; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

PART 164—NAVIGATION SAFETY REGULATIONS

■ 3. Correct part 164 by revising the authority citation to read as follows:

Authority: 33 U.S.C. 1223, 1231; 46 U.S.C. 2103, 3703, 70114, 70117; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1. Sec. 164.13 also issued under 46 U.S.C. 8502. Sec. 164.61 also issued under 46 U.S.C. 6101.

§ 164.46 [Corrected]

■ 4. In § 164.46(a)(2), add the word ''self-propelled'' before the word ''vessels''.

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 5. Correct part 165 by revising the authority citation to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

Dated: July 11, 2003.

T. H. Gilmour,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety, Security and Environmental Protection.

[FR Doc. 03–17982 Filed 7–15–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 101 and 102

[USCG–2003–14792]

RIN 1625–AA69

Implementation of National Maritime Security Initiatives; Correction

AGENCY: Coast Guard, DHS.

ACTION: Correcting amendments.

SUMMARY: On July 1, 2003, the Coast Guard published a temporary interim rule with request for comments and notice of meeting in the **Federal Register** concerning the implementation of national maritime security initiatives. This document contains corrections to that rule.

DATES: Effective on July 1, 2003.

FOR FURTHER INFORMATION CONTACT: For information concerning this document, write or call Commander Suzanne Englebert (G–M–1), U.S. Coast Guard by telephone 202–267–1103, toll-free telephone 1–800–842–8740 ext. 7–1103, or by electronic mail *msregs@comdt.uscg.mil.* If you have questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, at telephone 202–366–5149.

SUPPLEMENTARY INFORMATION: The Coast Guard published a temporary interim rule with request for comments and notice of meeting in the **Federal Register** on July 1, 2003, (68 FR 39240). The rule contained typographical errors and omissions that may prove to be misleading and therefore need to be corrected.

Corrections to the Preamble

In the temporary interim rule FR Doc. 03–16186 published in the **Federal Register** on July 1, 2003, make the following corrections:

1. On page 39252, in the third column, on line 17, in the Web site address, correct ''dot.tsa'' to read ''dottsa''.

2. On page 39269, in the first column, in the second paragraph, on line 9, correct the words ''Online Reporting'' to read ''Web Reports''.

3. On page 39274, in the first column, in the second footnote, in the Web site address, correct the word ''statististcs'' to read ''statistics''.

Corrections to the Regulatory Text

PART 101—GENERAL PROVISIONS

1. Correct part 101 by revising the authority citation to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 192; Executive Order 12656, 3 CFR 1988 Comp., p. 585; 33 CFR 1.05–1, 6.04–11, 6.14, 6.16, and 6.19; Department of Homeland Security Delegation No. 0170.1.

Dated: July 11, 2003.

T. H. Gilmour,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety, Security and Environmental Protection.

[FR Doc. 03–17978 Filed 7–15–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 103

[USCG–2003–14733]

RIN 1625–AA42

Area Maritime Security; Correction

AGENCY: Coast Guard, DHS.

ACTION: Correcting amendments.

SUMMARY: On July 1, 2003, the Coast Guard published a temporary interim rule with request for comments and notice of meeting in the **Federal Register** concerning the implementation of national maritime security initiatives in Area Maritime Security (ports). This document contains corrections to that rule.

DATES: Effective on July 1, 2003.

FOR FURTHER INFORMATION CONTACT: For information concerning this document, write or call Lieutenant Commander Richard Teubner (G–M–1), U.S. Coast Guard by telephone 202–267–1103, toll-free telephone 1–800–842–8740 ext. 7–1103, or by electronic mail *msregs@comdt.uscg.mil.* If you have questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, at telephone 202–366–5149.

SUPPLEMENTARY INFORMATION: The Coast Guard published a temporary interim rule with request for comments and notice of meeting in the **Federal Register** on July 1, 2003, (68 FR 39284). The rule contained typographical errors and omissions that may prove to be misleading and therefore need to be corrected.

Corrections to the Preamble

In the temporary interim rule FR Doc. 03–16187, published in the **Federal Register** on July 1, 2003, make the following corrections:

1. On page 39286, in the third column, on line 26, add the word ''be'' after the word ''must''.

Corrections to the Regulatory Text

PART 103—AREA MARITIME SECURITY

■ 1. Correct part 103 by revising the authority citation to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. 70102, 70103, 70104, 70112; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–11, 6.14, 6.16, and 6.19; Department of Homeland Security Delegation No. 0170.1.

Dated: July 11, 2003.

T.H. Gilmour,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety, Security and Environmental Protection.

[FR Doc. 03–17980 Filed 7–15–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 104, 160, and 165

46 CFR Parts 2, 31, 71, 91, 115, 126, and 176

[USCG–2003–14749]

RIN 1625–AA46

Vessel Security; Correction

AGENCY: Coast Guard, DHS.

ACTION: Correcting amendments.

SUMMARY: On July 1, 2003, the Coast Guard published a temporary interim rule with request for comments and notice of meeting in the **Federal Register** concerning the implementation of national maritime security initiatives for vessels. This document contains corrections to that rule.

DATES: Effective on July 1, 2003.

FOR FURTHER INFORMATION CONTACT: For information concerning this document, write or call Lieutenant Commander Kevin Oditt (G–MP), U.S. Coast Guard by telephone 202–267–1103, toll-free telephone 1–800–842–8740 ext. 7–1103, or by electronic mail *msregs@comdt.uscg.mil.* If you have questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, at telephone 202–366–5149.

SUPPLEMENTARY INFORMATION: The Coast Guard published a temporary interim rule with request for comments and notice of meeting in the **Federal Register** on July 1, 2003, (68 FR 39292). The rule contained typographical errors and omissions that may prove to be misleading and therefore need to be corrected.

Corrections to the Preamble

In the temporary interim rule FR Doc. 03–16188, published in the **Federal Register** on July 1, 2003, make the following corrections:

1. On page 39293, in the first column, under **DATES** in the second paragraph, on line 3, add the date ''July 31, 2003'' after the word ''before''.

2. On page 39293, in the second column, under **FOR FURTHER INFORMATION CONTACT:** correct the words ''Transportation, and telephone'' to read ''Transportation at telephone''.

3. On page 39294, in the second column, on the last line, correct the words ''part B, of will'' to read ''part B, will''.

Corrections to the 33 CFR Parts 104, 160, and 165 Regulatory Text

PART 104—GENERAL PROVISIONS

■ 1. Correct part 104 by revising the authority citation to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–11, 6.14, 6.16, and 6.19; Department of Homeland Security Delegation No. 0170.1.

§ 104.415 [Corrected]

■ 2. In § 104.415(a)(2), correct the words ''marine safety center'' to read ''Marine Safety Center''.

PART 160—PORT AND WATERWAY SAFETY—GENERAL

■ 3. Correct part 160 by revising the authority citation to read as follows:

Authority: 33 U.S.C. 1223, 1231; 46 U.S.C. Chapter 701; Department of Homeland Security Delegation No. 0170.1. Subpart D is also issued under the authority of 33 U.S.C. 125 and 46 U.S.C. 3715.

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 4. Correct part 165 by revising the authority citation to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; Department of Homeland Security Delegation No. 0170.1.

Corrections to the 46 CFR Parts 2, 31, 71, 91, 126, and 176 Regulatory Text

PART 2—VESSEL INSPECTIONS

■ 1. Correct part 2 by revising the authority citation to read as follows:

Authority: 33 U.S.C. 1903; 43 U.S.C. 1333; 46 U.S.C. 3103, 3205, 3306, 3307, 3703; 46 U.S.C. Chapter 701; Executive Order 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1; subpart 2.45 also issued under the authority of Act Dec. 27, 1950, Ch. 1155, secs. 1, 2, 64 Stat. 1120 (see 46 U.S.C. App. Note prec. 1).

PART 31—INSPECTION AND CERTIFICATION

■ 2. Correct part 31 by revising the authority citation to read as follows:

Authority: 33 U.S.C. 1321(j); 43 U.S.C. 2103, 3205, 3306, 3307, 3703; 46 U.S.C. Chapter 701; 49 U.S.C. 5103, 5106; Executive Order 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Executive Order 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; Department of Homeland Security Delegation No. 0170.1; Section 31.10–021 also issued under the authority § 4109, Public Law 101–380, 104 Stat. 515.

PART 71—INSPECTION AND CERTIFICATION

■ 3. Correct part 71 by revising the authority citation to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2113, 3205, 3306, 3307; 46 U.S.C. Chapter 701; Executive Order 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Executive Order 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; Department of Homeland Security Delegation No. 0170.1.

PART 91—INSPECTION AND CERTIFICATION

■ 4. Correct part 91 by revising the authority citation to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3205, 3306, 3307; 46 U.S.C. Chapter 701; Executive Order 12234; 45 FR 58801; 3 CFR, 1980 Comp., p. 277; Executive Order 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; Department of Homeland Security Delegation No. 0170.1.

PART 115—INSPECTION AND CERTIFICATION

■ 5. Correct part 115 by revising the authority citation to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2103, 3205, 3306, 3307; 46 U.S.C. Chapter 701; 49 U.S.C. App. 1804; Executive Order 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 743; Executive Order 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

PART 126—INSPECTION AND CERTIFICATION

■ 6. Correct part 126 by revising the authority citation to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3205, 3306, 3307; 46 U.S.C. Chapter 701; Executive Order 111735, 38 FR 21243, 3 CFR 1971–1975 Comp., p. 793; Department of Homeland Security Delegation No. 0170.1.

PART 176—INSPECTION AND CERTIFICATION

■ 7. Correct part 176 by revising the authority citation to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2103, 3205, 3306, 3307; 46 U.S.C. Chapter 701; 49 U.S.C. App. 1804; Executive Order 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

Dated: July 11, 2003.

T.H. Gilmour,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety, Security and Environmental Protection.

[FR Doc. 03–17979 Filed 7–15–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 105

[USCG–2003–14732]

RIN 1625–AA43

Facility Security; Correction

AGENCY: Coast Guard, DHS.

ACTION: Correcting amendments.

SUMMARY: On July 1, 2003, the Coast Guard published a temporary interim rule with request for comments and notice of meeting in the **Federal Register** concerning the implementation of national maritime security initiatives for facilities. This document contains corrections to that rule.

DATES: Effective on July 1, 2003.

FOR FURTHER INFORMATION CONTACT: For information concerning this document, write or call Lieutenant Gregory Purvis (G–MP), U.S. Coast Guard by telephone 202–267–1103, toll-free telephone 1–800–842–8740 ext. 7–1103, or by electronic mail *msregs@comdt.uscg.mil.* If you have questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, at telephone 202–366–5149.

SUPPLEMENTARY INFORMATION: The Coast Guard published a temporary interim rule with request for comments and notice of meeting in the **Federal Register** on July 1, 2003, (68 FR 39315). The rule contained typographical errors and omissions that may prove to be misleading and therefore need to be corrected.

Corrections to the Preamble

In the temporary interim rule FR Doc. 03–16189 published in the **Federal Register** on July 1, 2003, make the following corrections:

1. On page 39318, in the second column, on line 18, correct ''them'' to read ''then''.

Corrections to the Regulatory Text

PART 105—FACILITY SECURITY

■ 1. Correct part 105 by revising the authority citation to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. 70103; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–11, 6.14, 6.16, and 6.19; Department of Homeland Security Delegation No. 0170.1.

§ 105.130 [Corrected]

■ 2. Correct § 105.130 by removing the last sentence. § 105.410 [corrected]

§ 105.410 [Corrected]

■ 3. In § 105.410(d), correct the words ''approved by the cognizant COTP.'' to read ''approved by each cognizant COTP.''

Dated: July 11, 2003.

T.H. Gilmour,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety, Security and Environmental Protection.

[FR Doc. 03–17981 Filed 7–15–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 106

[USCG–2003–14759]

RIN 1625–AA68

Outer Continental Shelf Facility Security; Correction

AGENCY: Coast Guard, DHS.

ACTION: Correcting amendments.

SUMMARY: On July 1, 2003, the Coast Guard published a temporary interim rule with request for comments and notice of meeting in the **Federal Register** concerning the implementation of national maritime security initiatives for Outer Continental Shelf facilities. This document contains corrections to that rule.

DATES: Effective on July 1, 2003.

FOR FURTHER INFORMATION CONTACT: For information concerning this document, write or call Lieutenant Greg Versaw (G–MP), U.S. Coast Guard by telephone 202–267–1103, toll-free telephone 1–800–842–8740 ext. 7–1103, or by electronic mail *msregs@comdt.uscg.mil.* If you have questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, at telephone 202–366–5149.

SUPPLEMENTARY INFORMATION: The Coast Guard published a temporary interim rule with request for comments and notice of meeting in the **Federal Register** on July 1, 2003, (68 FR 39338). The rule contained typographical errors and omissions that may prove to be misleading and therefore need to be corrected.

Corrections to the Preamble

In the temporary interim rule FR Doc. 03–16190 published in the **Federal Register** on July 1, 2003, make the following corrections:

1. On page 39338, in the third column, under the heading ''Supplementary Information,'' on line 6, correct the word ''Pub. L.'' to read ''Public Law''.

2. On page 39339, in the first column, correct the heading ''Discussion of Comments Addressing OCS Facility Issues in the Notice of Meeting'' to read ''Discussion of Comments Addressing Outer Continental Shelf (OCS) Facility Issues in the Notice of Meeting''.

3. On page 39339, in the second column, in the third full paragraph, on line 8, correct the words ''the crew,'' to read ''OCS facility personnel,''.

4. On page 39340, in the first column, in the fifth bullet, correct the punctuation ''.'' to read '';''.

5. On page 39340, in the first column, in the nineth bullet, correct the words ''MARSEC Level'' to read ''Maritime Security (MARSEC) Level''.

6. On page 39340, in the second column, under the subheading ''Training,'' on line 6, correct the words ''Officer and OCS'' to read ''Officer or OCS''.

7. On page 39340, in the second column, under the subheading ''Training,'' on line 18, correct the words ''possess necessary'' to read ''possess the necessary''.

8. On page 39341, in the first column, in the first paragraph, on the last line, correct the word ''passengers'' to read ''OCS Facility Personnel''.

9. On page 39341, in the first column, under the subheading ''Facility Security Assessment (FSA),'' on line 20, correct the words ''in the parts'' to read ''in parts''.

10. On page 39341, in the second column, on line 10, correct the punctuation by adding a ''.'' at the end of the sentence.

11. On page 39341, in the third column, in the second full paragraph, on line 3, correct the word ''would'' to read ''will''.

12. On page 39341, in the third column, under the heading ''Cost Assessment,'' on line 2, correct the words ''practice or regulations'' to read ''practice or because of regulations''.

13. On page 39342, in the first column, on line 6, correct the word ''assume'' to read ''assumes''.

14. On page 39342, in the second column, under the heading ''Benefit Assessment,'' on line 4, correct the words ''Area Maritime Security'' to read ''Area Maritime Security (AMS)''.

15. On page 39343, in the second column, in the first paragraph under the heading ''Assistance for Small Entities,'' on line 3, correct the word ''Pub. L.'' to read ''Public Law''.

16. On page 39343, in the third column, in the first paragraph under the subheading ''Summary of the Collection of Information:'', on line 5, correct the words ''OCS platforms'' to read ''OCS facilities''.

Corrections to the Regulatory Text

PART 106—OUTER CONTINENTAL SHELF (OCS) FACILITY SECURITY

■ 1. Correct part 106 by revising the authority citation to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–11, 6.14, 6.16, and 6.19; Department Of Homeland Security Delegation No. 0170.1.

§ 106.205 [Corrected]

■ 2. Correct § 106.205 by revising paragraph (c)(4) to read:

(4) Methodology of Facility Security Assessment.

■ 3. In § 106.205(c)(5), correct the punctuation ''.'' to read '';''.

§ 106.215 [Corrected]

■ 4. Correct § 106.215 by revising paragraph (a) to read:

(a) Knowledge of current and anticipated security threats and patterns.

§ 106.235 [Corrected]

■ 5. In § 106.235(b), correct the words ''owner and operator'' to read ''owner or operator''.

§ 106.240 [Corrected]

■ 6. In § 106.240(b), correct the words ''with the cognizant District Commander,'' to read ''the cognizant District Commander,''.

§ 106.250 [Corrected]

■ 7. In § 106.250(d), correct the word ''DOSs'' to read ''DoSs''.

§ 106.260 [Corrected]

■ 8. In § 106.260(a)(1), correct the words ''introduction or dangerous'' to read ''introduction of dangerous''.

■ 9. In § 106.260(e)(7), correct the word ''passengers'' to read ''OCS facility personnel''.

§ 106.275 [Corrected]

■ 10. In § 106.275(a)(2)(i), correct the words ''around OCS facility;'' to read ''around OCS facilities;''.

§ 106.280 [Corrected]

■ 11. In § 106.280(e), correct the word ''OSC'' to read ''OCS''.

§ 106.305 [Corrected]

■ 12. In § 106.305(c)(2)(v), correct the word ''and'' to read ''or''.

■ 13. In § 106.305(d)(1)(iv), correct the punctuation ''.'' to read '';''.

§ 106.405 [Corrected]

■ 14. In § 106.405(a) introductory text, correct the words ''the list'' to read ''this paragraph''.

■ 15. In § 106.405(a)(1), correct the term ''OC'' to read ''OCS''.

Dated: July 11, 2003.

T.H. Gilmour,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety, Security and Environmental Protection.

[FR Doc. 03–17977 Filed 7–15–03; 8:45 am]

BILLING CODE 4910–15–P 6

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD05–03–095]

RIN 1625–AA09

Drawbridge Operation Regulations; Chincoteague Channel, VA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations; request for comments.

SUMMARY: The Commander, Fifth Coast Guard District, has issued a temporary deviation from the regulations governing the operation for the existing SR 172 drawbridge across the Chincoteague Channel, mile 3.5, at Chincoteague, Virginia. This temporary deviation will test a proposed change to the drawbridge operation schedule and help determine whether a permanent change to the regulations is reasonable. This temporary deviation will allow the Chincoteague Channel Bridge to remain in the closed position from 7 a.m. to 5 p.m. on July 30 and on July 31, 2003. This temporary deviation is necessary to facilitate public safety during the Annual Pony Swim.

DATES: This deviation is effective from 7 a.m. on July 30, to 5 p.m. on July 31, 2003. Comments must be received by September 12, 2003.

ADDRESSES: You may mail comments to Commander (oan-b), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704, or deliver them to the same address between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The Commander, Fifth Coast Guard District (oan-b), maintains the public docket for this rulemaking. Comments and materials received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the above address.

FOR FURTHER INFORMATION CONTACT: Linda L. Bonenberger, Bridge Management Specialist, Fifth Coast Guard District, at (757) 398–6227.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking submitting comments or related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD05–03–095), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know if they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. Comments must be received by September 12, 2003.

Background and Purpose

The Town of Chincoteague has requested a temporary deviation from the current operating regulation set out in 33 CFR 117.5 that requires the drawbridge to open promptly and fully for the passage of vessels when a request to open is given.

The purpose of the closure is for the Annual Pony Swim across the Assateague Channel between Assateague Island and Chincoteague

that takes place every year on the last Wednesday and Thursday in July. The herd is owned by the Chincoteague Volunteer Fire Department and managed by the National Park Service. This annual event began in the 1700's, but in 1925 the Fire Department took over the event that is also referred to as the Chincoteague Volunteer Fireman's Carnival. The proceeds from the auctioning of the ponies provide a source of revenue for the fire company and it also serves to trim the herd's numbers. On Wednesday, July 30, 2003, the ponies will be lead across the Assateague Channel from Assateague Island to Chincoteague where they will be auctioned off. On Thursday, July 31, 2003, the remaining ponies will be lead back across the channel to Assateague Island. Due to the high volume of spectators that attend this yearly event, it is necessary to close the draw span on each of these days between the hours of 7 a.m. to 5 p.m. to ensure the safety of the ponies and to vehicular traffic congestion on this small island as a result of drawbridge openings. The drawbridge will resume opening on demand after 5 p.m. on July 30, 2003, to 7 a.m. on July 31, 2003. After 5 p.m. on July 31, 2003, the bridge will once again resume normal operation.

Under this temporary deviation, the Chincoteague Channel Bridge may remain in the closed position from 7 a.m. to 5 p.m. on Wednesday, July 30, 2003, and on Thursday, July 31, 2003.

Since the Pony Swim is a well-known annual event that occurs on the last Wednesday and Thursday in July every year, and is publicly advertised, vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

This deviation from the operating regulations is authorized under 33 CFR 117.43, and comments and information gathered during the comment period will assist the Coast Guard in determining if this test operating schedule is reasonable and should be made a permanent addition to the drawbridge operation regulations.

Dated: July 9, 2003.

Waverly W. Gregory, Jr.,

Chief, Bridge Administration Section, Fifth Coast Guard District.

[FR Doc. 03–17989 Filed 7–15–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD07–03–076]

RIN 1625–AA09

Drawbridge Operation Regulations; Brooks Memorial (S.E. 17th Street) Bridge, Atlantic Intracoastal Waterway Mile 1065.9, Fort Lauderdale, Florida

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule; request for comments.

SUMMARY: The Coast Guard is temporarily changing the operation of the new Brooks Memorial (SE. 17th Street) bridge across the Atlantic Intracoastal Waterway, Fort Lauderdale, Florida. This temporary rule requires the bridge to open on signal, except from 7 a.m. to 7 p.m. daily, the bridge need open only on the hour and half-hour.

DATES: This temporary rule is effective from 12:01 a.m. on July 16, 2003 until 6 p.m. on January 2, 2004.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket [CGD07–03–076] and are available for inspection or copying at room 432, Seventh Coast Guard District, Bridge Branch, 909 SE. 1st Avenue, Miami, Florida, 33131, between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Lieberum, Bridge Branch, 909 SE 1st Ave, Miami, Florida 33131, telephone number 305–415–6744.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [CGD07–03–076], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change this temporary rule in view of them.

Regulatory Information

We did not publish a notice of proposed rulemaking (NRPM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM because traffic studies indicate vehicular congestion in this area directly related to this bridge opening.

For the same reason, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

Background and Purpose

The Brooks Memorial (SE. 17th Street) bridge was replaced with a high-level bridge, which provides a vertical clearance of 55 feet above mean high water in the closed position and a horizontal clearance of 125 feet between fenders. The regulations for the old bridge were published in 33 CFR 117.261(hh) and will be removed as they do not apply to the new bridge. The new bridge has been operating on the old operating schedule since construction. Even though the new bridge has a higher vertical clearance than the old bridge, the number of openings has only slightly decreased because most sailboats still require a bridge opening. This temporary rule is intended to allow the Coast Guard to evaluate the adequacy of a half-hour schedule during the summer and winter daytime hours before a permanent rule is proposed.

Discussion of Rule

This temporary rule will require the Brooks Memorial (SE. 17th Street) bridge, mile 1065.9 at Fort Lauderdale, to open on signal; except that from 7 a.m. to 7 p.m. the draws need open only on the hour and half-hour.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS). We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary because the rule still provides for at least two openings every hour.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this temporary rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this temporary rule will not have a significant economic impact on a substantial number of small entities because the rule still provides for at least two openings every hour.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this temporary rule will have a significant economic impact on it, please submit a comment (*see* **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule will economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this temporary rule so that they can better evaluate its effects on them and participate in the rulemaking. If this temporary rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in **FOR FURTHER INFORMATION CONTACT**.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This temporary rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Although this temporary rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in the preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets the applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a statement of Energy Effects under Executive Order 13211.

Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction, from further environmental documentation. An ''Environmental Analysis Check List'' and a ''Categorical Exclusion Determination'' are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; Department of Homeland Security Delegation No. 0170; 33 CFR 1.05–1(g); Section 117.255 also issued under authority of Pub. L. 102–587, 106 Stat. 5039.

■ 2. From 12:01 a.m. on July 16, 2003, until 6 p.m. on January 2, 2004, in § 117.261, suspend paragraph (hh) and add a new paragraph (uu) to read as follows:

§ 117.261 Atlantic Intracoastal Waterway from St. Marys River to Key Largo.

* * * * *

(uu) The Brooks Memorial (SE. 17th Street) bridge, mile 1065.9 at Fort Lauderdale, shall open on signal; except that from 7 a.m. to 7 p.m. the draws need open only on the hour and half-hour.

Dated: July 3 2003.

Harvey Johnson Jr.,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 03–17984 Filed 7–15–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 117 and 165

[CGD09–03–204]

[RIN 1625–AA09 and 1625–AA00]

Bay City Tall Ship Celebration, Saginaw River, August 14–18, 2003

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary safety zones and drawbridge suspension regulations during the Bay City Tall Ship Celebration to be held from August 14, 2003 through August 18, 2003 located on the Saginaw River in Bay City, Michigan. These safety zones are necessary to promote the safe navigation of vessels and the safety of life and property during the periods of heavy vessel traffic expected during these events. These safety zones are intended to restrict vessel traffic from a portion of Saginaw Bay and the Saginaw River.

DATES: This rule is effective from August 14, 2003 through August 18, 2003.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD09–03–204 and are available for inspection or copying at U.S. Coast Guard Marine Safety Office Detroit, 110 Mt. Elliott Ave., Detroit, Michigan between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade Brandon Sullivan, Marine Safety Office Detroit, at (313) 568–9558.

SUPPLEMENTARY INFORMATION:

Regulatory History

On March 24, 2003, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled Bay City Tall Ship Celebration 2003, Saginaw River, MI in the **Federal Register** (68 FR 14170). The Coast Guard did not receive any letters commenting on the proposed rulemaking. No public hearing was requested, and none was held.

Background and Purpose

Bay City Tall Ship Celebration 2003 is a community-wide maritime festival in Bay City, MI, featuring a 12-mile ship parade, fireworks, and in-port viewing and tours of moored historic tall ship vessels between August 14 and August 18, 2003. The parade of ships is the start of the Bay City Celebration. The parade will form in Saginaw Bay and traverse the Saginaw River to the Liberty Bridge and the Friendship Pier.

Vessels will moor at docks along Veterans Park and Wenonah Park between the Liberty Bridge and the Friendship Pier in Bay City. We are establishing a temporary moving safety zone around the parade vessels during the parade to ensure the safety of passengers, crew and visitors. A second temporary safety zone will be established, once the vessels are moored, between the Liberty Bridge and the Friendship Pier (by light buoy 28) mile marker six. Fireworks are scheduled to take place in Veterans Park on August 16, 2003 from 9:30 p.m. to 11 p.m. These temporary regulations are prompted by the high degree of control necessary to ensure the safety of both participating and spectator vessels during the events occurring in Saginaw Bay and the Saginaw River. These regulations provide guidance on vessel movement controls and safety zones that will be in effect at specified marine locations during specified times. The temporary regulations are specifically designed to minimize adverse impacts on commercial users of the affected waterways.

Discussion of Comments and Changes

On March 24, 2003, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled Bay City Tall Ship Celebration 2003, Saginaw River, MI, (68 FR 14170). The Coast Guard did not receive any letters commenting on the proposed rulemaking. No public hearing was requested, and none was held.

Regulatory Evaluation

This rule is not ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a) (3) of the Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Homeland Security.

We expect the economic impact of this temporary final rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

The temporary moving safety zone will only be during a six hour time period on August 14, 2003. The additional safety zone will be enforced after the mooring of the parade vessels. On August 14, 2003, the combination of parade vessels and large numbers of recreational vessels will cause potential disruptions to normal port activity. However, due to the temporary nature of these disruptions, they can be planned for in advance to minimize the economic hardship that might result. The largest segments of the port community facing disruptions are the operators of deep draft vessels and the terminals they call on. In addition to the extended advance notice of these events provided by the COTP, deep draft vessel traffic will be accommodated as best as possible on these two days.

The Coast Guard expects that the amount of publication and advertisement about these events and about these regulations will allow the industry sufficient time to adjust schedules and minimize adverse impacts. Weighted against and counterbalanced with adverse impacts are the favorable economic impacts that these events will have on commercial activity in the area as a whole from the boaters and tourists these events are expected to attract.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), an initial review was conducted to determine whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–221), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If this rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Marine Safety Office Detroit (see **ADDRESSES**).

Collection of Information

This rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that Order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2–1, paragraphs 34 (f, g, and h) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A written ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES**.

List of Subjects

33 CFR Part 117

Bridges.

33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1(g); Section 117.255 also issued under authority of Pub. L. 102–587, 106 Stat. 5039; Department of Homeland Security delegation No. 0170.1.

■ 2. From 8 a.m. through 1 p.m., Thursday, August 14, 2003, in § 117.647, suspend paragraph (b) and add temporary paragraphs (e) and (f) to read as follows:

§ 117.647 Saginaw River.

* * * * *

(e) The draws of the Veterans Memorial bridge, mile 5.60, and Lafayette Street bridge, mile 6.78 in Bay City, shall open on signal from March 16 through December 15, except as follows:

(1) From 6:30 a.m. to 8:30 a.m. and from 3:30 p.m. to 5:30 p.m. except Saturdays, Sundays, and holidays observed in the locality, the draws need not be opened for the passage of vessels of less than 50 gross tons.

(2) From 7:30 a.m. to 8:30 a.m. and from 4:30 p.m. to 5:30 p.m. except on Sundays and Federal holidays, the draws need not be opened for the passage of down-bound vessels of over 50 gross tons.

(3) From 8 a.m. to 8 p.m. on Saturdays, Sundays, and Federal holidays, the draws of the Independence and Veterans Memorial bridges need not be opened for the passage of pleasure craft except from three minutes before to three minutes after the hour and half-hour.

(4) From 8 a.m. to 8 p.m. on Saturdays, Sundays, and Federal holidays, the draws of the Liberty Street and Lafayette Street bridges need not be opened for the passage of pleasure craft, except from three minutes before to three minutes after the quarter hour and three-quarter hour.

(f) The draws of the Independence bridge, mile 3.88, and the Liberty Street Bridge, mile 4.99, from 1 p.m. until 9 p.m., Thursday, August 14, 2003, shall be closed to navigation, except that the draws shall open upon signal for official vessels participating in the Tall Ship Celebration 2003 Parade of Ships.

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

■ 3. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 4. From 1 p.m. on August 14, 2003 through 9 p.m. on August 18, 2003 add temporary § 165.T09–204 to read as follows:

§ 165.T09–204 Safety Zone; Tall Ship Celebration 2003 Bay City, MI

(a) The following are safety zones:

(1) *Saginaw River Moored Tall Ships Safety Zone, Veterans Park and Wenonah Park, Saginaw River, Bay City, MI.*—(i) *Location.* The following area is a safety zone: All waters of the Saginaw River between the Liberty Bridge at mile 4.99 and the Friendship Pier at mile 6.1 within 50 feet of any participating moored Tall Ships.

(ii) *Enforcement period.* The safety zone will be enforced whenever a tall

ship is moored at Veterans Park or Wenonah Park between the Liberty Bridge and the Friendship Pier, from 1 p.m. on August 14, 2003 to 9 p.m. on August 18, 2003.

(iii) *Special regulations.* (A) Vessels operating in the Saginaw River within the safety zone during the effective period must proceed at no wake speeds, and not within 50 feet of the hull of any moored tall ship, in traffic patterns as directed by on-scene Coast Guard patrol craft, so as not to hazard tall ships or shore-side visitors boarding tall ships.

(B) Vessels shall remain outside the designated hazard area in the safety zone, as directed by on-scene Coast Guard personnel, during any evening fireworks event.

(2) *Bay City Tall Ships Parade Moving Safety Zone.*— (i) *Location.* The following area is a moving safety zone: All navigable waters 100 yards ahead of the first official parade vessel, 50 yards abeam of each parade vessel, and 50 yards astern of the last vessel in the parade between the starting position at 43°43′54″ N, 83°46′54″ W (northeast of Saginaw Bay Light ''12'' (LLNR 10675)), and remaining in effect until the official parade vessels are moored between Veterans Memorial Park and Wennonah Park (between the Liberty Bridge and the Friendship Pier)(These coordinates are based upon North American Datum 1983).

(ii) *Enforcement period.* This section will be enforced from 1 p.m. on Thursday, August 14, 2003 until 9 p.m. on Thursday, August 14, 2003, or the time each participating Tall Ship is safely moored in Bay City, whichever is sooner.

(b) *Regulations.* (1) The general regulations in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene patrol personnel. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator shall proceed as directed. U.S. Coast Guard Auxiliary, representatives of the event organizer, and local or state officials may be present to inform vessel operators of this regulation and other applicable laws.

Dated: June 7, 2003.

Ronald F. Silva,

Rear Admiral, Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 03–17988 Filed 7–15–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–03–203]

RIN 1625–AA00

Safety Zone; Captain of the Port Chicago Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of implementation of regulation.

SUMMARY: The Coast Guard is implementing safety zones for annual fireworks displays in the Captain of the Port Chicago Zone during July 2003. This action is necessary to provide for the safety of life and property on navigable waters during these events. These zones will restrict vessel traffic from a portion of the Captain of the Port Chicago Zone.

DATES: Effective from 12:01 a.m. (Local) on July 1, 2003 to 11:59 p.m. (Local) on July 31, 2003.

FOR FURTHER INFORMATION CONTACT: MST2 Kenneth Brockhouse, U.S. Coast Guard Marine Safety Office Chicago, IL at (630) 986–2155.

SUPPLEMENTARY INFORMATION: The Coast Guard is implementing the permanent safety zones in 33 CFR 165.918 (published May 20, 2003, in the **Federal Register**, 68 FR 27466), for fireworks displays and other marine events in the Captain of the Port Chicago Zone during July 2003. The following safety zones will be enforced for fireworks displays and other marine events occurring in the month of July 2003:

Navy Pier Summer Fireworks, Lake Michigan, Chicago, IL

This safety zone will be enforced every Wednesday and Saturday evening from 9 p.m. (local) until termination of display.

Evanston Fourth of July Fireworks—Evanston, IL

This safety zone will be enforced on July 4, 2003 from sunset through termination of display.

Independence Day Fireworks—Manistee, MI

This safety zone will be enforced on July 4, 2003 from sunset through termination of display.

Independence Day Fireworks—Lake Kalamazoo, Saugatuck, MI

This safety zone will be enforced on July 4, 2003 from sunset through termination of display.

Independence Day Fireworks—White Lake, Whitehall, MI

This safety zone will be enforced on July 4, 2003 from sunset through termination of display.

Pentwater July 3rd Fireworks—Lake Michigan, Pentwater, MI

This safety zone will be enforced on July 3, 2003 from sunset until termination of display.

Venetian Night Fireworks—Lake Kalamazoo, Saugatuck, MI

This safety zone will be enforced on July 26, 2003 from sunset through termination of display.

Team Aquatics Ski Show—Grand River, Grand Haven, MI

This safety zone will be enforced on July 29, 2003 from 6 p.m. (local) through 8:30 p.m.(local).

Navy Pier 4th of July Fireworks—Lake Michigan, Chicago, IL

This safety zone will be enforced on July 3, 2003 from sunset through termination of display.

In order to ensure the safety of spectators and transiting vessels, these safety zones will be in effect for the duration of the events. In cases where shipping is affected, commercial vessels may request permission from the Captain of the Port Chicago to transit the safety zone.

Approval will be made on a case-by case basis. Requests must be made in advance and approved by the Captain of Port before transits will be authorized. The Captain of the Port may be contacted by calling (630) 986–2155.

Dated: June 25, 2003.

Raymond E. Seebald,

Captain, Coast Guard, Captain of the Port Chicago.

[FR Doc. 03–17907 Filed 7–15–03; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP San Diego 03–013]

RIN 1625–AA00

Security Zone; Coronado Bay Bridge, San Diego, CA.

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule; change in effective period.

SUMMARY: The Coast Guard is revising the effective period of the temporary

security zone 25 yards around all piers, abutments, fenders and pilings of the Coronado Bay Bridge. These temporary security zones are needed for national security reasons to protect the public ports from potential subversive actions. Persons and vessels are prohibited from entering into, transiting through, loitering, or anchoring within this security zone unless authorized by the Captain of the Port, or his designated representative.

DATES: The amendment to § 165.T11–032 in this rule is effective June 21, 2003. Section 165.T11–032, added at 68 FR 18123, April 15, 2003, effective from 12:01 a.m. (PST) on March 22, 2003, until 11:59 p.m. (PDT) on June 22, 2003, as amended in this rule, is extended in effect to 11:59 p.m. (PDT) on September 22, 2003.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [COTP San Diego 03–013] and are available for inspection or copying at Marine Safety Office San Diego, 2716 North Harbor Drive, San Diego, CA 92101–1064 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Petty Officer Austin Murai, USCG, c/o U.S. Coast Guard Captain of the Port, telephone (619) 683–6494

SUPPLEMENTARY INFORMATION:

Regulatory Information

On April 15, 2003, we published a temporary final rule (TFR) establishing the 25-yard security zone around the Coronado Bay Bridge. The published rule was entitled Security Zones; San Diego Bay, San Diego, CA in the **Federal Register** (68 FR 18123) under 33 CFR 165.T11–032. It has been in effect since March 22, 2003, and is set to expire 11:59 p.m. (PDT) on June 22, 2003.

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), for the reasons set forth below, the Coast Guard finds that good cause exists for not publishing an NPRM. Also, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register** because the threat of maritime attacks is real as evidenced by the October 2002 attack of a tank vessel off the coast of Yemen and the continuing threat to U.S. assets as described in the President's finding in Executive Order 13273 of August 21, 2002 (67 FR 56215, September 3, 2002) that the security of the U.S. is endangered by the September, 11, 2001 attacks and that such disturbances continue to endanger the international relations of the United States. See also Continuation of the National Emergency with Respect to Certain Terrorist Attacks, (67 FR 58317, September 13, 2002); Continuation of the National Emergency With Respect To Persons Who Commit, Threaten To Commit, Or Support Terrorism, (67 FR 59447, September 20, 2002). Under the current threat level condition, Federal agencies are to consider the following protective measures: Coordinate necessary security efforts with Federal, state, and local law enforcement agencies, National Guard or other security and armed forces; and restrict access to a threatened facility to essential personnel only. As a result, a heightened level of security has been established around the Coronado Bridge. Additionally, the measures contemplated by this rule are intended to prevent future terrorist attacks against individuals on or near the Coronado Bridge. Any delay in the effective date of this TFR is impractical and contrary to the public interest.

The Coast Guard will be publishing a NPRM to establish permanent security zones that are temporarily effective under this rule. This revision preserves the status quo within the Ports while permanent regulations are developed.

For the reasons stated in the paragraphs above under 5 U.S.C. 553(d)(3), the Coast Guard also finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

Background and Purpose

Since the September 11, 2001 terrorist attacks on the World Trade Center in New York, the Pentagon in Arlington, Virginia and Flight 93, the Federal Bureau of Investigation (FBI) has issued several warnings concerning the potential for additional terrorist attacks within the United States. In addition, the ongoing hostilities in Afghanistan and the war with Iraq have made it prudent to U.S. ports to be on higher state of alert because the Al-Qaeda organization and other similar organizations have declared an ongoing intention to conduct armed attacks on U.S. interests worldwide. In its effort to thwart terrorist activity, the Coast Guard has increased safety and security measures on U.S. ports and waterways. As part of the Diplomatic Security and Antiterrorism Act of 1986 (Pub. L. 99–399), Congress amended section 7 of the Ports and Waterways Safety Act (PWSA), 33 U.S.C. 1226, to allow the Coast Guard to take actions, including the establishment of security and safety zones, to prevent or respond to acts of terrorism against individuals, vessels, or public or commercial structures.

In this particular rulemaking, to address the aforementioned security concerns, and to take steps to prevent the catastrophic impact that a terrorist attack against the Coronado Bridge would have on the public interest, the Coast Guard is establishing security zones around the Coronado Bridge. These security zones help the Coast Guard to prevent vessels or persons from engaging in terrorist actions against these bridges. Due to these heightened security concerns, and the catastrophic impact a terrorist attack on these bridges would have on the public the transportation system and surrounding areas and communities, security zones are prudent for these structures.

A temporary security zone was created and published on April 15, 2003 in the **Federal Register** (Vol. 68, No. 72, 18123). The Coast Guard's intention during this time was to draft a Notice of Proposed Rulemaking to create a permanent security zone around the Coronado Bay Bridge. This temporary security zone is intended to give the Coast Guard additional time to complete the Notice of Proposed Rulemaking and maintain a security zone around the bridge until a permanent regulation can be completed.

Discussion of Rule

In this temporary rule, the Coast Guard is establishing fixed security zones extending from the surface to the sea floor, 25 yards in the waters around all piers, abutments, fenders and pilings of the Coronado Bridge, San Diego Bay, California. Entry into these security zones is prohibited, unless doing so is necessary for safe navigation, or to conduct official business such as scheduled maintenance or retrofit operations. Vessels and people may be allowed to enter an established security zone on a case-by-case basis with authorization from the Captain of the Port. Vessels or persons violating this section will be subject to the penalties set forth in 33 U.S.C. 1232. Pursuant to 33 U.S.C. 1232, any violation of the security zone described herein, is punishable by civil penalties (not to exceed $27,500 per violation, where each day of a continuing violation is a separate violation), criminal penalties (imprisonment up to 6 years and a maximum fine of $250,000), and in rem liability against the offending vessel. Any person who violates this section, using a dangerous weapon, or who engages in conduct that causes bodily injury or fear of imminent bodily injury

to any officer authorized to enforce this regulation, also faces imprisonment up to 12 years.

Coast Guard personnel will enforce this regulation and the Captain of the Port may be assisted by other Federal, State, or local agencies in the patrol and enforcement of the regulation. This regulation is proposed under the authority of 33 U.S.C. 1226 in addition to the authority contained in 33 U.S.C. 1231.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS).

Although this regulation restricts access to the zones, the effect of this regulation will not be significant because: (i) The zones will encompass only a small portion of the waterway; (ii) Vessels will be able to pass safely around the zones; and (iii) Vessels may be allowed to enter these zones on a case-by-case basis with permission of the Captain of the Port, or his designated representative.

The sizes of the zones are the minimum necessary to provide adequate protection for the bridges, vessels operating in the vicinity, their crews and passengers, adjoining areas and the public. The entities most likely to be affected are commercial vessels transiting the main ship channel en route the southern San Diego Bay and Chula Vista ports and pleasure craft engaged in recreational activities and sightseeing.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. The security zones will not have a significant economic impact on a substantial number of small entities for several reasons: small vessel traffic can pass safely around the security zones and vessels engaged in recreational activities, sightseeing and commercial fishing have ample space outside of the security zones to engage in these activities. Small entities and the maritime public will be advised of these security zones via public notice to mariners.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.1D, this rule is

categorically excluded from further environmental documentation because we are establishing a security zone. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record-keeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.

■ 2. Revise § 165.T11–032 to read as follows:

§ 165.T11–032 Security Zone: Coronado Bay Bridge, San Diego, CA.

(a) *Location.* All waters extending from the surface to the sea floor, 25 yards around all piers, abutments, fenders and pilings of the Coronado Bay Bridge on the navigable waters of San Diego Bay. This security zone will not restrict the main navigational channel and vessels will not be restricted from transiting through the channel.

(b) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into, transit through, loitering, or anchoring within this security zone by all persons and vessels is prohibited, unless authorized by the Captain of the Port, or his designated representative. Mariners are advised that the security zones will not restrict the main navigational channel and transit through the channel is not prohibited. Mariners requesting permission to transit through the security zone may request authorization to do so from Captain of the Port or his designated representative. The Coast Guard can be contacted on San Diego Bay via VHF–FM channel 16.

(c) *Authority.* In addition to 33 U.S.C. 1231, the authority for this section includes 33 U.S.C. 1226.

(d) *Effective period.* This section is effective from 11:59 p.m. (PDT) on March 22, 2003, until 11:59 p.m. (PST) on September 22, 2003. If the Coast Guard terminates enforcement of this security zone prior to the scheduled termination time, the Captain of the Port will cease enforcement of this safety zone and will announce that fact via Broadcast Notice to Mariners.

Dated: June 13, 2003.

Robert E. McFarland,

Lieutenant Commander, U.S. Coast Guard, Acting Captain of the Port, San Diego.

[FR Doc. 03–17986 Filed 7–15–03; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL–7528–4]

RIN 2060–AH67

Protection of Stratospheric Ozone: Allowance System for Controlling HCFC Production, Import and Export

AGENCY: Environmental Protection Agency.

ACTION: Final rule; technical correction.

SUMMARY: The Environmental Protection Agency published in the **Federal Register** of January 21, 2003, a document establishing an allowance system to control the U.S. consumption and production of ozone-depleting substances known as hydrochlorofluorocarbons (HCFCs). This document corrects references inadvertently retained in that document.

EFFECTIVE DATE: July 16, 2003.

FOR FURTHER INFORMATION CONTACT: Vera Au, 202–564–2216; E-mail: *au.vera@epamail.epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

Categories and entities potentially regulated by this action include:

Category	NAICS	Regulated entities
Industrial gas manufacturing	325120	Chlorofluorocarbon gases manufacturing.
Industrial gases merchant wholesalers	424690, 422690	Other Chemical and Allied Products Merchant Wholesalers.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in this table could also be regulated. To determine whether your facility, company, business organization, etc. is regulated by this action, you should examine the applicability criteria in § 82.1(b) of 40 CFR part 82. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

B. How Can I Get Copies of This Document and Other Related Information?

1. Docket. Materials relevant to this action are contained in Docket No. A–98–33 at the Air and Radiation Docket at EPA West, Room B–108, 1301 Constitution Avenue, NW., Washington, DC 20004. The Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the reading room is (202) 566–1742. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

2. Electronic access. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr.* An electronic version of the public docket is also available through EPA's new electronic public docket, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/rpas/* to access the index listing of the contents of the official public docket for this action, as well as access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket identification number that EPA has established for this action. Certain types of information will not be placed in the EPA Docket. Information claimed as CBI, and other information whose disclosure is restricted by statute which is not included in the official public docket, will not be available for public viewing

in EPA's electronic public docket either. The EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available supporting materials for this action will be made available in EPA's electronic public docket. When a document is selected from the index list in the EPA Docket, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the Docket Center identified in this notice. The EPA intends to work toward providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

II. What Does This Correction Do?

The EPA published a document in the **Federal Register** of January 21, 2003, (68 FR 2820), in which references to paragraph (t) were inadvertently retained in § 82.4. This correction amends the references from paragraph (t) to paragraph (n).

The corrections will become effective immediately (without further rulemaking action) on July 16, 2003.

III. Why Is This Correction Issued as a Final Rule?

Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making today's action final without prior proposal and opportunity for comment because the changes to the rule are minor technical corrections and do not change the requirements of the rule. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B) (see also the final sentence of section 307(d)(1) of the Clean Air Act, 42 U.S.C. 7607(d)(1), indicating that the good cause provisions of the APA continue to apply to this type of rulemaking under the Clean Air Act).

Section 553(d)(3) allows an agency, upon a finding of good cause, to make a rule effective immediately. Because today's changes do not change the requirements of the rule, we find good cause to make these technical corrections effective immediately.

IV. Do Any of the Executive Order and Statutory Reviews Apply to This Correction?

This final rule implements a technical correction to the Code of Federal Regulations, and it does not otherwise impose or amend any requirements.

1. Executive Order 12630. The EPA has complied with Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights (Takings) (53 FR 8859, March 15, 1988) by examining the takings implications of this technical correction in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the Executive Order.

2. Executive Order 12866. Under Executive Order 12866, Regulatory Planning and Review (58 FR 51735, October 4, 1993), this technical correction is not a '''significant regulatory action''' and is therefore not subject to review by the Office of Management and Budget(OMB). This action is not a '''major rule''' as defined by 5 U.S.C. 804(2).

3. Executive Order 12898. This technical correction does not involve special consideration of environmental justice-related issues as required by Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994).

4. Executive Order 12988. In issuing this technical correction, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988, Civil Justice Reform (61 FR 4729, February 7, 1996).

5. Executive Order 13045. This technical correction is not subject to Executive Order 13045, Protection of Children from Environmental Health and Safety Risks (62 FR 19885, April 23, 1997) because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

6. Executive Order 13132. This technical correction does not have substantial direct effects on the States, or on the relationship between the national government and the States, as specified in Executive Order 13132, Federalism (64 FR 43255, August 10, 1999).

7. Executive Order 13175. This technical correction does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13175, Consultation and Coordination with Indian Tribal Governments (65 FR 67249, November 6, 2000).

8. Executive Order 13211. This technical correction is not subject to Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

9. Paperwork Reduction Act. This technical correction does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

10. National Technology Transfer and Advancement Act. This technical correction action does not involve changes to technical standards. Thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

11. Regulatory Flexibility Act. Because EPA has made a '''good cause''' finding that this action is not subject to notice and comment requirements under the APA or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

12. Unfunded Mandates Reform Act. This technical correction contains no Federal mandates (under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), (Pub. L. 104–4), for State, local, or tribal governments or the private sector because the correction imposes no enforceable duty on any State, local or tribal governments or the private sector. Thus the correction is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of the UMRA.

13. Congressional Review Act. The Congressional Review Act (CRA)(5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise

provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement (5 U.S.C. 808(2)). As stated previously, EPA has made such a good cause finding, including the reasons therefore, and established an effective date of July 16, 2003. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**.

The EPA's compliance with these Executive Orders and statutes fo the underlying rule is discussed in the January 21, 2003, **Federal Register** notice containing the Allowance System for Controlling HCFC Production, Import and Export final rule (68 FR 2820).

List of Subjects in 40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Chemicals, Chlorofluorocarbons, Exports, Hydrochlorofluorocarbons, Imports, Reporting and recordkeeping requirements.

Dated: July 7, 2003.

Jeffrey R. Holmstead,

Assistant Administrator for the Office of Air and Radiation.

■ For the reasons stated in the preamble, 40 CFR part 82 is amended as follows:

PART 82—PROTECTION OF STRATOSPHERIC OZONE

■ 1. The authority citation for part 82 continues to read as follows:

Authority: 42 U.S.C. 7414, 7601, 7671–7671q.

■ 2. In § 82.4 paragraph (n) introductory text is amended by revising the reference ''(t)(2) and (t)(3)'' to read ''(n)(2) and (n)(3)'' and revising the reference ''(t)(1)(i) through (iii)'' to read ''(n)(1)(i) through (iii).''

■ 3. In § 82.4(n)(4), revise the reference ''(t)(3)'' to read ''(n)(3)'' and the reference ''(t)(1)'' to read ''(n)(1).''

[FR Doc. 03–18000 Filed 7–15–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2003–0219; FRL–7313–6]

Cymoxanil; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of cymoxanil in or on hop, dried cones; lettuce, head; imported lychee; vegetable, cucurbit, group 9; and vegetable, fruiting, group 8. The Interregional Research Project Number 4 (IR-4), the Taipai Economic and Cultural Representative Office, and E.I du Pont Nemours and Company requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act (FQPA) of 1996. EPA is also deleting the time-limited tolerance for hop, dried cones established in connection with use of the pesticide under section 18 emergency exemptions and the tolerance for imported tomato. These tolerances are no longer needed since this rule establishes tolerances in support of the U.S. registration for hops and tomato.

DATES: This regulation is effective July 16, 2003. Objections and requests for hearings, identified by docket ID number OPP–2003–0219, must be received on or before September 15, 2003.

ADDRESSES: Written objections and hearing requests may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Shaja R. Brothers, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–3194; e-mail address: *brothers.shaja]@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS 111)
- Animal production (NAICS 112)
- Food manufacturing (NAICS 311)
- Pesticide manufacturing (NAICS 32532)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established an official public docket for this action under docket identification ID number OPP–2003–0219. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*. A frequently updated electronic version of 40 CFR part 180 is available at *http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html*, a beta site currently under development. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at *http://www.epa.gov/opptsfrs/home/guidelin.htm*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public

docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

II. Background and Statutory Findings

In the **Federal Register** of July 6, 2001 (66 FR 130) (FRL–6784–9) and February 28, 2003 (68 FR 9660) (FRL–7288–9), EPA issued notices pursuant to section 408 of FFDCA, 21 U.S.C. 346a, as amended by FQPA (Public Law 104–170), announcing the filing of a pesticide petition (1E6224) by IR-4, 681 U.S. Highway #1 South, North Brunswick, NJ 08902–3390; PP 1E6233 from the Taipai Economic and Cultural Representative Office, 4301 Connecticut Ave., NW Suite 420, Washington, DC 20008; and PP 0F6072 from E.I. duPont de Nemours and Company, DuPont Agricultural Products, Barley Mill Plaza, Wilmington, DE 19880–0038. Those notices included summaries of the petitions prepared by E.I. duPont de Nemours and Company, DuPont Agricultural Products, the registrant. The petitions requested that 40 CFR 180.503 be amended by establishing tolerances for residues of the fungicide cymoxanil, [2-cyano-*N*-[(ethylamino)carbonyl]-2-(methoxyimino) acetamide], in or on hop at 1.0 part per million (ppm) (PP 1E6224); lettuce, head at 4.0 ppm (PP 6F6072); imported lychee at 1.0 ppm (PP 1E6233); vegetable, cucurbit, group at 0.05 ppm (PP 0F6072); and vegetable, fruiting, group at 0.2 ppm (PP 0F6072).

The World Wildlife Fund (WWF) submitted comments on August 7, 2001 in response to the notice of filing for hops and lychee. WWF urged EPA to apply the full 10X FQPA safety factor to cymoxanil ''because completed studies for this fungicide are inadequate to detect endocrine disruption and the endocrine disruptor data gap is of critical importance when determining a reasonable certainty of no harm to embryos, fetus, infants and children.'' In addition, WWF stated that there may be evidence of increased developmental susceptibility for cymoxanil. EPA reviewed the comments submitted by WWF and has addressed them in Unit III. D. of this document.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of the FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of the FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 of the FFDCA and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances November 26, 1997 (62 FR 62961) (FRL–5754–7).

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D) of the FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2) of the FFDCA, for tolerances for residues of cymoxanil on hop, dried cones at 1.0 ppm; lettuce, head at 4.0 ppm; vegetable, cucurbit, group 9 at 0.05 ppm; vegetable, fruiting, group 8 at 0.2 ppm; and imported lychee at 1.0 ppm. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by cymoxanil are discussed in Table 1 of this unit as well as the no observed adverse effect level (NOAEL) and the lowest observed adverse effect level (LOAEL) from the toxicity studies reviewed.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY

Guideline No.	Study Type	Results
870.3100	90–Day oral toxicity rodents (rat)	Systemic toxicity NOAEL = 47.6 milligrams/kilogram/day (mg/kg/day) in males and 59.9 mg/kg/day in females Systemic toxicity LOAEL = 102 mg/kg/day in males and 137 mg/kg/day in females, based on decreases in body weights, body weight gains and food efficiency in the females, and body weight decreases and testicular and epididymal changes in males.
870.3150	90–Day oral toxicity in non-rodents (dog)	Systemic toxicity NOAEL not established Systemic toxicity LOAEL = 3 mg/kg/day, based on decreased body weights (13%) and food consumption in females.
870.3200	21/28–Day dermal toxicity (rat)	Systemic and dermal toxicity NOAEL = 1,000 mg/kg/day, highest dose tested (HDT) Systemic and dermal toxicity LOAEL was not established.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY—Continued

Guideline No.	Study Type	Results
870.3700	Prenatal developmental in rodents (rat)	Maternal NOAEL = 25 mg/kg/day Maternal LOAEL = 75 mg/kg/day, based upon reduced body weight, body weight change and food consumption Developmental NOAEL = 10 mg/kg/day Developmental LOAEL = 25 mg/kg/day, based upon significant increase in overall malformations, and generalized dose-related delay in skeletal ossification; at 75 and 150 mg/kg/day significant decrease in fetal body weights; at 150 mg/kg/day increased early resorptions resulting in reduced litter size.
870.3700	Prenatal developmental in nonrodents (rabbit)	Maternal NOAEL 32 mg/kg/day Maternal LOAEL was not established Developmental NOAEL = 4 mg/kg/day Developmental LOAEL = 8 mg/kg/day, based upon an increase in skeletal anomalies of the cervical and thoracic vertebrae and ribs; at 32 mg/kg/day, cleft palate was also observed.
870.3800	2-Generation reproduction and fertility effects (rat)	Systemic toxicity NOAEL = 6.5 males and 7.9 females mg/kg/day Systemic toxicity LOAEL = 32.1 males and 40.6 females mg/kg/day, based on reduced pre-mating body weight, body weight gain, and food consumption for P males; and decreased gestation and lactation body weight for F1 females Reproductive toxicity NOAEL 97.9 mg/kg/day for males and 130 mg/kg/day for females. Reproductive toxicity LOAEL was not established Offspring toxicity NOAEL = 6.5 males and 7.9 females mg/kg/day Offspring toxicity LOAEL = 32.1 female and 40.6 females mg/kg/day, based upon decreased F1 pup viability on postnatal days 0–4 and on a significant reduction in F2b pup weight.
870.4100	Chronic toxicity (dog)	Systemic toxicity NOAEL = 3.0/3.1 mg/kg/day for males/ and females Systemic toxicity LOAEL = 5.7 mg/kg/day (HDT in males), based upon depressed weight gains through week 12 and changes in the hematology and blood chemistry in males LOAEL was not established for females.
870.4300	Combined chronic toxicity/ carcin ogenicity rodents (rat)	Systemic toxicity NOAEL = 4.08 mg/kg/day for males and 5.36 mg/kg/day for females Systemic toxicity LOAEL = 30.3 mg/kg/day for males and 38.4 mg/kg/day for females, based upon decreased body weight, body weight gain, and food efficiency, increased incidence of elongate spermatid degeneration and increased aggressiveness and/or hyperactivity in males and increased incidence of non-neoplastic lesions of the lungs, liver, sciatic nerve and retinal atrophy in females No evidence of carcinogenicity.
870.4200	Carcinogenicity mice	Systemic toxicity NOAEL = 4.19 mg/kg/day for males and 5.83 mg/kg/day for females, lowest dose tested (LDT) Systemic toxicity LOAEL = 42 mg/kg/day for males and 58.1 mg/kg/day for females HDT, based upon increased frequency of sperm cyst/cystic dilatation, tubular dilatation and lymphoid aggregates in males and hyperplastic gastropathy in females No evidence of carcinogenicity.
870.5100	Gene mutation	Cytotoxicity in all strains was seen at 750 μg/plate -S9 and 1.000 μg/plate +S9. The positive controls induced the expected mutagenic responses in the appropriate tester strain. There was, however, no evidence that the test material induced a mutagenic effect under any test condition.
870.5300	*In vitro* mammalian cell gene mutation assay (CHO)	Severe cytotoxicity was seen at 750 μg/mL -S9 and 1,000 μg/mL +S9. The positive controls induced the expected mutagenic responses. There was, however, no evidence that the test material was mutagenic at the Hypoxanthine Guanine Phophoribosyl Transferase locus at any dose under any assay condition.
8 70.6200	Subchronic neurotoxicity screening battery (rat)	No effects on the functional observation battery, or motor activity were observed. No treatment-related gross or microscopic findings in the nervous system or skeletal muscles of the male and female rats were observed The neurotoxicity NOAEL 3,000 ppm (224 mg/kg/day in males and 333 mg/kg/day in females; HDT). Neurotoxicity LOAEL was not established.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY—Continued

Guideline No.	Study Type	Results
870.6300	Developmental neurotoxicity (rat)	Maternal toxicity NOAEL = 50 mg/kg/day Maternal toxicity LOAEL = 100 mg/kg/day, based on slight decrease body weight, body weight gains (17%) and food consumption. Offspring NOAEL = 50 mg/kg/day Offspring LOAEL = 100 mg/kg/day, based on decreased pup survival, decreased pup weight and body weight gain during early lactation (less than 6%), increases in morphometric measurements (anterior/posterior cerebrum for males, cerebellar height for females) at PND 79–83, and decreased retention in the water maze task for adult females (latency 158% of control levels) seen at the LOAEL of 100 mg/kg/day.
870.7485	Metabolism and pharmacokinetics (rat)	Cymoxanil was readily absorbed and 86 to 94% of the administered dose was excreted in 96 hours. The majority of the administered dose was recovered in the urine (64 - 57%) with smaller amounts excreted in the feces (16 - 24%) and carcass (<1%). There were no sex-related differences in the absorption, distribution and metabolism of cymoxanil. In urine about 37 - 55% of the dose was free and/or conjugated [^{14}C]glycine and 2 cyano-2-methoxyiminoacetic acid (IN-W3595; about 7 to 33% of the dose). Intact cymoxanil was not isolated in urine. In feces intact ^{14}C cymoxanil (<1%) and IN W3595 was detected, but the majority of radioactivity was ^{14}C glycine (about 9 - 13%). Based on the data, the metabolic pathway involves hydrolysis of cymoxanil to IN W3595, which is then degraded to glycine, which in turn is incorporated into natural constituents or further metabolized.

B. Toxicological Endpoints

The dose at which the NOAEL from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern. However, the the LOAEL is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intra species differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (aRfD or cRfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factors is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic population adjusted dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA SF.

For non-dietary risk assessments (other than cancer) the UF is used to determine the lever of concern. For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the lever of concern.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1 x 10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a ''point of departure'' is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} =point of departure/exposures) is calculated. A summary of the toxicological endpoints for cymoxanil used for human risk assessment is shown in the following Table 2.

TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR CYMOXANIL FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Level of Concern for Risk Assessment	Study and Toxicological Effects
Acute dietary (females 13–50 years of age)	NOAEL = 4 mg/kg/day UF = 100 aRfD = 0.04 mg/kg/day	FQPA SF = 1X aPAD = aRfD FQPA SF = 0.04 mg/kg/day	Developmental toxicity study - rabbit Developmental LOAEL = 8 mg/kg/day based on increased skeletal anomalies of the cervical and thoracic vertebrae (hemivertebrae) and ribs; at 32 mg/kg/day, cleft palate was also observed.

TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR CYMOXANIL FOR USE IN HUMAN RISK ASSESSMENT—Continued

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Level of Concern for Risk Assessment	Study and Toxicological Effects
Acute dietary (general population including infants and children)	NA	NA	An effect attributable to a single exposure was not observed in the oral toxicity studies, including the developmental toxicity studies in rats and rabbits. Therefore, an aRfD was not established for this population.
Chronic dietary (all populations)	NOAEL = 4 mg/kg/day UF = 100 cRfD = 0.04 mg/kg/day	FQPA SF = 1X cPAD = chronic RfD FQPA SF = 0.04 mg/kg/day	Combined chronic toxicity/carcinogenicity study - rat Systemic LOAEL = 30.3 mg/kg/day based on decreases in body weight, body weight gain, reduced food efficiency and histopathological lesions in the eyes and testes of males.
Short-term dermal (1 to 30 days) (Residential)	Oral study NOAEL = 4 mg/kg/day (Dermal absorption rate = 2.5%)	LOC for MOE = 100 (Residential)	Developmental toxicity study - rabbit Developmental LOAEL = 8 mg/kg/day based on increased skeletal anomalies of the cervical and thoracic vertebrae (hemivertebrae) and ribs; at 32 mg/kg/day, cleft palate was also observed.
Intermediate-term dermal (1 to 6 months) (Residential)	Oral study NOAEL = 4 mg/kg/day (Dermal absorption rate = 2.5%	LOC for MOE = 100 (Residential)	Developmental toxicity study - rabbit Developmental LOAEL = 8 mg/kg/day based on increased skeletal anomalies of the cervical and thoracic vertebrae (hemivertebrae) and ribs; at 32 mg/kg/day, cleft palate was also observed.
Long-term dermal (>6 months) (Residential)	Oral study NOAEL= 4 mg/kg/day (Dermal absorption rate = 2.5% when appropriate)	LOC for MOE = 100 (Residential)	Combined chronic toxicity/carcinogenicity study - rat Systemic LOAEL = 30.3 mg/kg/day based on decreases in body weight, body weight gain, reduced food efficiency and histopathological lesions in the eyes and testes of males.
Short-term inhalation (1 to 30 days) (Residential)	Oral study NOAEL= 4 mg/kg/day (Inhalation absorption rate = 100%)	LOC for MOE = 100 (Residential)	Developmental toxicity study - rabbit Developmental LOAEL = 8 mg/kg/day based on increased skeletal anomalies of the cervical and thoracic vertebrae and ribs; at 32 mg/kg/day, cleft palate was also observed.
Intermediate-term inhalation (1 to 6 months) (Residential)	Oral study NOAEL = 4 mg/kg/day (Inhalation absorption rate = 100%)	LOC for MOE = 100 (Residential)	Developmental toxicity study - rabbit Developmental LOAEL = 8 mg/kg/day based on increased skeletal anomalies of the cervical and thoracic vertebrae and ribs; at 32 mg/kg/day, cleft palate was also observed.
Long-term inhalation (> 6 months) (Residential)	Oral study NOAEL= 4 mg/kg/day (Inhalation absorption rate = 100%)	LOC for MOE = 100 (Residential)	Combined chronic toxicity/carcinogenicity study - rat Systemic LOAEL = 30.3 mg/kg/day based on decreases in body weight, body weight gain, reduced food efficiency and histopathological lesions in the eyes and testes of males.
Cancer (oral, dermal, inhalation)	NA	NA	Classification: not likely human carcinogen Q1* = none.

* The reference to the FQPA SF refers to any additional SF retained due to concerns unique to the FQPA.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.503) for the residues of cymoxanil, in or on a variety of raw agricultural commodities. A permanent tolerance of 0.05 ppm for residues of cymoxanil per se in/on potatoes has been established under 40 CFR 180.503(a). A time-limited tolerance of 1 ppm for residues of cymoxanil per se in/on hops, dried has

also been established under 40 CFR 180.503(b) in connection with EPA's granting of a section 18 emergency exemption. The time-limited tolerance for hops, dried cone was set to expire December 31, 2003. Tolerances for residues of cymoxanil per se in/on imported grapes and tomatoes at 0.1 ppm are established under 40 CFR 180.503(e). Risk assessments were conducted by EPA to assess dietary exposures from cymoxanil in food as follows:

i. *Acute exposure*. Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure. In conducting the acute dietary exposure assessment EPA used the Dietary Exposure Evaluation Model software with the Food Commodity Intake Data base (FCDI DEEM™) which incorporates food consumption data as reported by respondents in the United States Department of Agriculture (USDA) 1994–1996, and 1998 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The acute dietary exposure analyses assumed tolerance level residues, 100% crop treated and DEEM™ (ver. 7.76) default processing factors for all registered/proposed commodities.

ii. *Chronic exposure*. In conducting the chronic dietary exposure assessments EPA used the DEEM™ software with the FCID which incorporates food consumption data as reported by respondents in the USDA 1994–l996, and 1998 nationwide CSFII and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: The chronic dietary exposure analyses assumed tolerance level residues, 100% CT, and DEEM™ (ver. 7.76) default processing factors for all registered/proposed commodities.

iii. *Cancer*. In accordance with the EPA Draft Guidelines for Carcinogen Risk Assessment (July 1999), the Agency classified cymoxanil as a ''not likely'' human carcinogen. Therefore, a cancer dietary exposure analysis was not performed.

2. *Dietary exposure from drinking water*. The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for cymoxanil in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of cymoxanil.

The Agency uses the Generic Estimated Environmental Concentration (GENEEC) or the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) to estimate pesticide concentrations in surface water and Screening Concentration in Ground water (SCI-GROW), which predicts pesticide concentrations in ground water. In general, EPA will use GENEEC (a tier 1 model) before using PRZM/EXAMS (a tier 2 model) for a screening-level assessment for surface water. The GENEEC model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. GENEEC incorporates a farm pond scenario, while PRZM/EXAMS incorporate an index reservoir environment in place of the previous pond scenario. The PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead, drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to cymoxanil they are further discussed in the aggregate risk sections in Unit II.E.

Cymoxanil appears to be mobile in soils. However, the rapid dissipation of cymoxanil in the environment precludes the possibility of extensive leaching. No detections of cymoxanil were observed below the 0–15 cm soil depth at any of the test sites. Though the degradates of cymoxanil are mobile, the aerobic soil metabolism study showed that the degradates are short-lived. Cymoxanil and its degradates should not pose a threat to ground water. Therefore, ground water EEC values were not included in the risk assessment.

Based on the GENEEC model the EECs of cymoxanil for surface water are estimated to be 4.13 parts per billion (ppb) for acute exposures and 0.19 ppb for chronic exposure.

3. *From non-dietary exposure*. The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Cymoxanil is not registered for use on any sites that would result in residential exposure.

4. *Cumulative exposure to substances with a common mechanism of toxicity*. Section 408(b)(2)(D)(v) of the FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA does not have, at this time, available data to determine whether cymoxanil has a common mechanism of toxicity with other substances. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to cymoxanil and any other substances and cymoxanil does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that cymoxanil has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the policy statements released by EPA's Office of Pesticide Programs concerning common mechanism determinations and procedures for cumulating effects from substances found to have a common mechanism on EPA's website at *http://www.epa.gov/pesticides/cumulative/*.

D. Safety Factor for Infants and Children

1. *In general*. Section 408 of the FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose

level that poses no appreciable risk to humans.

2. *Prenatal and postnatal sensitivity*. There is an indication of increased susceptibility (qualitative and quantitative) of rats and rabbits to *in utero* exposure to cymoxanil. In the rat developmental toxicity study, decreased fetal body weights and skeletal malformations were observed at 25 mg/kg/day LOAEL, which is below the maternal toxicity of 75 mg/kg/day LOAEL. In the rabbit developmental study increased skeletal malformations were observed at 8 mg/kg/day LOAEL, also below the maternal NOAEL of 32 mg/kg/day. In the 2-generation reproduction study there was an indication of increased qualitative susceptibility in the offspring, since there was decreased pup viability at a maternally toxic dose.

3. *Conclusion*. There is a complete toxicity data base for cymoxanil and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. EPA determined that the 10X SF to protect infants and children should be reduced to 1X. The FQPA factor is reduced to 1X because in the developmental and postnatal studies (including a developmental neurotoxicity study in rats) the effects are well characterized and conservative NOAELs were established for all developmental and offspring effects. In addition, the doses selected for risk assessment are lower than the NOAELs from these studies and are protective of any potential prenatal and post-natal effects. Therefore, there are low levels of concern and no residual uncertainties for prenatal and postnatal toxicity.

In response to the notice of filing of July 6, 2001, WWF urged EPA to apply the full 10X FQPA safety factor to cymoxanil. According to WWF the data for cymoxanil is inadequate to address potential endocrine disruption and there is evidence of increased susceptibility in the prenatal developmental rabbit study. WWF claimed the multigeneration reproduction study in rats is inadequate because it was conducted before the 1996 guideline changes which added additional endpoints responsive to estrogenic and/or androgenic endocrine disruption. In addition, WWF noted that inferences about endocrine disruption based on current guidelines are still not fully adequate to evaluate endocrine disruption. In particular, the Endocrine Disruptor Screening and Testing Advisory Committee (EDSTAC) recommended the inclusion of more endpoints relevant to thyroid disruption and measurement of estradiol, testerone, luteinizing hormone, follicle stimulating hormone, T4 and thyroid stimulating hormone levels in multigeneration studies. WWF further argued for the inclusion of certain adrenal hormones such as ACTH and corticosterone (the primary glucocorticoid in rodents) to fully address the endocrine disruption issue. In addition, WWF believes that there is an increased developmental susceptibility to rabbits fetuses. WWF questioned the conclusions reached by the Office of Pesticide Programs' Hazard Identification Assessment Review Committee (HIARC) Jan 20, 1998 that there is no sensitivity in fetuses compared to maternal animals. Developmental malformations were observed at 8 mg/kg/day, which is below the maternal NOAEL of 16 mg/kg/day. These results were discounted due to uncertainties regarding the source of the parental rabbits. In another rabbit study, developmental malformations were observed at the same dose (8 mg/kg/day) as in the previous study, however, HIARC did not consider this to show increased susceptibility because the effects were observed at 8 mg/kg/day, which is also a maternal toxic dose.

On June 18, 2002, HIARC reviewed the WWF comments and concluded that possible endocrine-related effects on testicular and/or epididymal tissues are fully characterized and well defined in mouse, subchronic and chronic rat and dog studies with clear NOAELs. Further, in the reproduction toxicity study in rats, testicular effects were seen, however, these effects did not affect any measured reproductive parameters, indicating no adverse effects on reproduction. Additional measurements recommended by EDSTAC and WWF are unlikely to provide any significant additional information for cymoxanil since NOAELs are clearly defined for the testicular and/or epididymal effects and there are no indications of endocrine disruption in other organs e.g., thyroid (thyroid weight changes and hyperplasia), adrenal toxicity.

Prior to receipt of WWF letter, the HIARC on August 21, 2001, reevaluated the toxicology data base and modified certain study reviews resulting in the selection of new endpoints. The reevaluations resulted in the qualitative and quantitative evidence of increased susceptibility to rabbit fetuses (as suggested by WWF) and rat fetuses. In addition, reevaluation of rat reproduction toxicity study resulted in the qualitative increased susceptibility to offspring. A conservative NOAEL from the rabbit developmental study was used for establishing the aRfD. Nonetheless, it was concluded that reliable data supported applying no additional safety factor since endpoints chosen for risk assessments adequately protect infants and children with regard to the prenatal and/or postnatal toxicity that has been identified.

E. Aggregate Risks and Determination of Safety

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + residential exposure). This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the USEPA Office of Water are used to calculate DWLOCs: 2 liter (L)/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: Acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and ground water are less than the calculated DWLOCs, OPP concludes with reasonable certainty that exposures to the pesticide in drinking water (when considered along with other sources of exposure for which EPA has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because EPA considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, EPA will reassess the potential impacts of residues of the pesticide in drinking water as a part of the aggregate risk assessment process.

1. *Acute risk*. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to cymoxanil will occupy <71% of the aPAD for females 13 to 49 years old. This is the only population for which an acute toxicological endpoint has been determined. In addition, there is potential for acute dietary exposure to cymoxanil in drinking water derived from surface water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the aPAD, as shown in the following Table 3.

TABLE 3.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO CYMOXANIL

Population Subgroup	aPAD (mg/kg)	% aPAD (Food)	Surface Water EEC (ppb)	Acute DWLOC (ppb)
Females (13–49 years old)	0.04	<71	4.13	350

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to cymoxanil from food will utilize 13% of the cPAD for the U.S. population, and all population subgroups. Adults 20–49 years old and females 13–49 years old were the most highly exposed subpopulations. There are no residential uses for cymoxanil that result in chronic residential exposure. In addition, there is potential for chronic dietary exposure to cymoxanil in drinking water derived from surface water. After calculating DWLOCs and comparing them to the EECs for surface water and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 4.

TABLE 4.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO CYMOXANIL

Population Subgroup	cPAD mg/kg/day	% cPAD (Food)	Surface Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. population	0.04	<13	0.19	1,200

5. *Aggregate cancer risk for U.S. population*. In accordance with the EPA Draft Guidelines for Carcinogen Risk Assessment (July, 1999), the Agency classified cymoxanil as a ''not likely'' human carcinogen. Cymoxanil is not expected to pose a cancer risk to humans.

6. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to cymoxanil residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Cymoxanil was shown to be recoverable using Protocol D of FDA's Pesticide Analytical Manual I methodology. The residue of concern in plants was previously determined to be parent only. In addition, Method AMR 3060–94 Revision 2, a High Performance Liquid Chromotography Ultraviolet (HPLC/UV) method, should be adequate for lychee tolerance enforcement purposes.

B. International Residue Limits

There are no CODEX, Canadian or Mexican Maximum Residue Levels established for cymoxanil on hops, lychee, or cucurbit vegetables. The U.S. tolerance for fruiting vegetables is compatible with Codex. Therefore, no compatibility problems exist for the tolerances established by this rule.

V. Conclusion

Therefore, the tolerance is established for residues of cymoxanil, [2-cyano-*N*-[(ethylamino)carbonyl]-2-(methoxyimino) acetamide], in or on hop, dried cones at 1.0 ppm; lettuce, head at 4.0 ppm; vegetable, cucurbit group 9 at 0.05 ppm; vegetable, fruiting, group 8 at 0.2 ppm; and lychee at 1.0 ppm.

VI. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) of the FFDCA provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d) of FFDCA, as was provided in the old sections 408 and 409 of the FFDCA. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number OPP–2003–0219 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before September 15, 2003.

1. *Filing the request*. Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in

40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. You may also deliver your request to the Office of the Hearing Clerk in Rm. #104, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (703) 603–0061.

2. *Tolerance fee payment*. If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it ''Tolerance Petition Fees.''

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at *tompkins.jim@epa.gov*, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

3. *Copies for the Docket*. In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.1. Mail your copies, identified by docket ID number OPP–2003–0219, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.1. You may also send an electronic copy of your request via e-mail to: *opp-docket@epa.gov*. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VII. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of the FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of the FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism*(64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the

relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 30, 2003.

Debra Edwards,

Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

■ 2. Section 180.503 is amended by adding alphabetically the following commodities and a footnote to the table in paragraph (a) and removing paragraph (e) to read as follows:

§ 180.503 Cymoxanil, tolerance for residues.

(a) * * *

Commodity	Parts per million
Grape[1]	0.1
Hop, dried cones	1.0
Lettuce, head	4.0
Lychee[1]	1.0
* * *	* *
Vegetable, cucurbit, group 9	0.05
Vegetable, fruiting, group 8	0.2

[1]There are no U.S. registrations for grape and lychee.

* * * * *

[FR Doc. 03–17731 Filed 7–15–03; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket No. 96–45; FCC 03–115]

Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas

AGENCY: Federal Communications Commission.

ACTION: Final rule; petitions for reconsideration.

SUMMARY: In this document, the Commission addresses the requests of several petitioners to reconsider portions of the *Twelfth Report and Order and Further Notice of Proposed Rulemaking*, adopting rules to provide additional, targeted universal service support to low-income consumers on tribal lands and establishing a framework for the resolution of eligible telecommunications carrier (ETC) designations. The Commission also concludes that the definition of ''reservation'' for purposes of the universal service programs remains the same as that adopted in the *Twelfth Report and Order and Further Notice of Proposed Rulemaking*. The Commission addresses several requests for reconsideration relating to the rule amendments to the universal service low-income programs adopted in the *Twelfth Report and Order and Further Notice of Proposed Rulemaking*. The Commission also clarifies, on its own motion, the Commission's rules regarding the qualification criteria for enhanced Lifeline and Link-Up service. In addition, the Commission declines to adopt a rule that would require resolution of the merits of any request for ETC designation within six months of the filing date. The Commission also declines to extend the enhanced low-income programs to the Northern Mariana Islands.

DATES: Effective August 15, 2003.

FOR FURTHER INFORMATION CONTACT: Shannon Lipp, Attorney, Telecommunications Access Policy Division, Wireline Competition Bureau, (202) 418–7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Twenty-Fifth Order on Reconsideration and Report and Order (Order) in CC Docket No. 96–45 released on May 21, 2003. This Order was also released with a companion Further Notice of Proposed Rulemaking. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 Twelfth Street, SW., Washington, DC 20554.

I. Introduction

1. In this Order, we address the requests of several petitioners to reconsider portions of the *Twelfth Report and Order and Further Notice of Proposed Rulemaking*, 65 FR 47941, August 4, 2003, adopting rules to provide additional, targeted universal service support to low-income consumers on tribal lands and establishing a framework for the resolution of Eligible Telecommunications Carrier (ETC) designations under section 214(e)(6) of the Communications Act of 1934, as amended (the Act). The advancement of universal service on tribal lands remains a major policy goal of this Commission. Through our on-going dialogue with the tribes, as most recently exemplified by the Commission's launch of the Indian Telecommunications Initiatives in Phoenix, Arizona on September 19, 2002, the Commission continues in its efforts to promote telecommunications subscribership within American Indian and Alaskan Native tribal communities.

2. We affirm that the framework adopted by the Commission for resolution of ETC designations on tribal lands provides a reasonable means to facilitate the expeditious resolution of such requests, while balancing the respective federal, state, and tribal interests. We also conclude that the definition of ''reservation'' for purposes of the universal service programs remains the same as that adopted in the *Twelfth Report and Order and Further Notice of Proposed Rulemaking* despite the Bureau of Indian Affairs' (BIA) subsequent modification of that definition for purposes of its direct assistance programs. We address several requests for reconsideration relating to the rule amendments to the universal service low-income programs adopted in the *Twelfth Report and Order and*

Further Notice of Proposed Rulemaking. We also clarify, on our own motion, the Commission's rules regarding the qualification criteria for enhanced Lifeline and Link-Up service. In addition, we decline to adopt a rule that would require resolution of the merits of any request for ETC designation within six months of the filing date. We also decline to extend the enhanced low-income programs to the Northern Mariana Islands.

II. Order on Reconsideration

A. Petitions for Reconsideration

3. In September 2000, petitions for reconsideration were filed in response to the *Twelfth Report and Order and Further Notice of Proposed Rulemaking.* Several petitioners request that the Commission reconsider the framework to resolve jurisdictional issues under section 214(e)(6) for carriers seeking ETC designation on tribal lands. Several petitioners also raise issues relating to the amendments to the universal service low-income programs adopted in the *Twelfth Report and Order and Further Notice of Proposed Rulemaking.*

B. Discussion

1. ETC Designation Framework for Carriers Serving Tribal Lands

4. As discussed in greater detail, we deny petitions for reconsideration of the framework to resolve requests for ETC designations for carriers providing service on tribal lands. We affirm the Commission's prior conclusion that this framework facilitates the expeditious resolution of such requests, while balancing the relevant federal, state, and tribal interests in determining jurisdiction over carriers operating on tribal lands. In addition, we note that similar arguments were previously considered and rejected by the Commission in the *Twelfth Report and Order and Further Notice of Proposed Rulemaking.* We find no basis to now reconsider these issues.

5. Consistent with the Commission's prior conclusion, we decline to adopt the suggestion of those petitioners contending that section 214(e)(6) provides the Commission with the authority to assume jurisdiction over all carriers seeking ETC designation for service on tribal lands. These petitioners contend that any exercise of state jurisdiction in designating ETCs on tribal lands is inconsistent with the federal trust responsibility to tribes and the principle of tribal sovereignty. As the Commission concluded in the *Twelfth Report and Order and Further Notice of Proposed Rulemaking,* we do not believe that Congress intended the Commission to use section 214(e)(6) to usurp the role of a state commission that has jurisdiction over a carrier providing service on tribal lands. To the contrary, in adopting section 214(e)(6), Congress recognized that some state commissions had asserted jurisdiction over tribal lands. Congress also acknowledged pending jurisdictional disputes between states and tribes and made clear that the adoption of section 214(e)(6) was not ''intended to impact litigation regarding jurisdiction between State and federally-recognized tribal entities.''

6. We affirm that this framework is consistent with the federal trust responsibility to the tribes and the principle of tribal sovereignty. In establishing the framework for the designation of carriers serving tribal lands, the Commission was guided by the recognition of, and respect for, principles of tribal sovereignty and self-determination. The designation framework recognizes that the principles of tribal sovereignty may lead some carriers and tribes to be unwilling to submit jurisdictional questions relating to tribal lands to a state commission. The adopted framework therefore provides the opportunity for parties to submit this issue directly to the Commission for resolution. In addition, the availability of a federal forum allows carriers and tribes to avoid the potential costs and delays that would arise if they were required to first challenge the jurisdictional issue in state proceedings and judicial appeals prior to requesting designation from this Commission under section 214(e)(6).

7. For the reasons discussed, we also decline to grant SDITC's request that the Commission require the relevant state commission to make the threshold determination as to whether it has jurisdiction over a carrier offering service on tribal lands. In addition, we note that nothing in the Commission's designation framework affects the ability of a carrier to seek designation from a state commission. The Commission's framework merely provides carriers with the option to seek resolution of the threshold jurisdictional issue on tribal lands from this Commission.

8. We also decline to adopt Western Wireless' suggestion that the Commission establish a standard whereby the Commission assumes jurisdiction under section 214(e)(6) in those instances in which the requesting carrier has obtained an agreement with the tribe and proposes to offer universal service that is targeted to the tribal land. In so doing, we note the admonition of the United States Supreme Court that ''[g]eneralizations on this subject have become * * * treacherous.'' Although the existence of a consensual relationship between the tribe and carrier regarding the provision of telecommunications service to tribal lands may be a significant factor in the jurisdictional analysis, we do not believe that it is prudent or necessary to establish such a fixed presumption. A careful analysis of the specific agreement between the tribe and carrier is necessary to determine its relevance to the jurisdictional determination. As noted in the *Twelfth Report and Order and Further Notice of Proposed Rulemaking*, the issue of whether a state commission lacks jurisdiction over a carrier is a particularized inquiry guided in each case by the principles of tribal sovereignty, federal Indian law, and treaties, as well as state law. The framework established by the Commission allows for the careful balancing of the respective federal, state, and tribal interests, including an examination of the relationship between the carrier and tribe, to make this determination on a case-by-case basis. We therefore decline to adopt Western Wireless' proposal.

2. Definition of ''Tribal Lands''

9. Consistent with the request of NTCA, we confirm that the Commission's definition of ''tribal lands'' for purposes of considering requests for ETC designation under section 214(e)(6) is identical to the definition of ''tribal lands'' utilized in the context of the enhanced Lifeline and Link-Up support programs. In the *Twelfth Report and Order and Further Notice of Proposed Rulemaking*, the Commission adopted a definition of ''tribal lands'' that included ''reservation'' and ''near reservation'' areas, as defined, at that time, in sections 20.1(v) and (r) of the BIA regulations. Subsequently, the Commission became aware that the term ''near reservation'' included wide geographic areas, extending substantially beyond the boundaries of reservations, that do not possess the same characteristics that warranted the targeting of support to reservations. For example, areas such as Phoenix, Arizona and Sacramento, California are considered to be ''near reservation areas,'' even though they are not isolated and underserved. As a result, the Commission issued an order staying implementation of the enhanced Lifeline and Link-Up rules to the extent that they apply to qualifying low-income consumers located on ''near reservation'' areas.

10. We agree with NTCA that the Commission's rationale for adopting a

separate designation framework for carriers seeking designation on tribal lands does not extend to ''near reservation'' areas, as defined by BIA. As defined by BIA, near reservations are designated areas or communities that are adjacent or contiguous to reservations where financial assistance and social service programs are provided. Because these areas often extend substantially beyond the exterior boundaries of reservations, we do not believe they invoke the same jurisdictional concerns and principles of tribal sovereignty associated with areas within the exterior boundaries of reservations. Therefore, pending resolution of the issues presented in the *Tribal Stay Order*, 65 FR 58721, October 2, 2000, petitions for designation filed under section 214(e)(6) relating to ''near reservation'' areas will not be considered as petitions relating to tribal lands. Petitioners seeking ETC designation in such areas must follow the procedures outlined in the *Twelfth Report and Order* for non-tribal lands prior to submitting a request for designation to this Commission under section 214(e)(6).

11. We also take this opportunity to confirm that the definition of ''reservation'' and ''near reservation'' for purposes of the universal service programs remains the same as that adopted in the *Twelfth Report and Order and Further Notice of Proposed Rulemaking.* Therefore, within the context of the universal service programs, the term ''reservation'' means ''any federally recognized Indian tribe's reservation, Pueblo, or Colony, including former reservations in Oklahoma, Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), and Indian allotments.'' The term ''near reservation'' is defined as those areas or communities adjacent or contiguous to reservations which are designated by the Department of Interior's Commission of Indian Affairs upon recommendation of the local Bureau of Indian Affairs Superintendent, which recommendation shall be based upon consultation with the tribal governing body of those reservations, as locales appropriate for the extension of financial assistance and/or social services, on the basis of such general criteria as: (1) Number of Indian people native to the reservation residing in the area, (2) a written designation by the tribal governing body that members of their tribe and family members who are Indian residing in the area, are socially, culturally and economically affiliated with their tribe and reservation; (3) geographical proximity of the area to the reservation, and (4) administrative feasibility of providing an adequate level of services to the area.

12. As noted, the Commission defined the term ''reservation'' in a manner consistent with section 20.1(v) of the BIA regulations and stated that any future BIA modifications to the definition of ''reservation'' would also apply to the definitions adopted in the *Twelfth Report and Order*. Following the release of the *Twelfth Report and Order and Further Notice of Proposed Rulemaking*, BIA revised its definition of ''reservation'' in such a way as to no longer explicitly include ''former reservations in Oklahoma'' or ''Indian allotments.'' Residence in a ''service area,'' rather than a ''reservation,'' is the new geographic eligibility requirement to receive financial assistance. As defined by BIA, ''service area'' means a geographic area, designated by the Assistant Secretary of Indian Affairs, where financial assistance and social services programs are provided. Such a geographic area designation can include a reservation, near reservation, or other geographic location. Under this mechanism, tribes may also request alternative service area designations. As noted, BIA has also eliminated section 20.1(r) defining near reservations and replaced it with a similar definition now contained in section 20.100.

13. To alleviate the potential for ongoing administrative uncertainty, we conclude that any future modifications to the definition of ''reservation'' or ''near reservation'' will take effect in the context of the universal service programs only upon specific action by the Commission. In so doing, we decline to incorporate BIA's recent revisions to the definition of ''reservation.'' Notwithstanding the fact that BIA modifications did not include ''former reservations in Oklahoma'' and Indian allotments in its definition of ''reservation,'' BIA continues to provide financial assistance in these areas. Accordingly, we find that maintaining the current definition of ''reservation'' for universal service purposes will be consistent with BIA's action in continuing to provide assistance in these areas, and with the Commission's commitment to increase subscribership and improve access to telecommunications services. We believe that this will ensure that the definition of ''reservation'' will remain consistent with the underlying goals of the Commission's enhanced Lifeline and Link-Up programs.

3. Universal Service Low-Income Programs

14. *SDITC Petition*. We grant SDITC's request to reconsider the Commission's finding that non-wireline carriers are eligible to receive Link-Up support for that portion of a handset that receives wireless signals. Upon reconsideration, we conclude that Link-Up should not offset any costs of a wireless handset. The Commission's rules preclude Link-Up support for facilities or equipment that fall on the customer side of the demarcation point. Although the Commission has never defined a demarcation point for wireless service, it has generally treated wireless handsets for purposes of bundled marketing of equipment and services as Customer Premises Equipment (CPE), which is equipment that falls on the customer side of the demarcation point between customer and network facilities. At the same time, we recognize that some portion of a wireless handset may perform functions analogous to the functions on the network side of the demarcation point, which, in the wireline context, would be eligible for Link-Up support. Nevertheless, under all the circumstances, we find that Link-Up should not support any costs of a wireless handset. In reaching this decision, we consider the difficulty of defining what portion, if any, of a wireless handset is on the network side of the demarcation point, as well as the difficulty in isolating the costs of such portion. We note that we make this finding regarding wireless handsets solely for purposes of determining what charges are eligible for Link-Up discounts. We further note that non-wireline carriers remain eligible to receive Link-Up support for the ''customary charge for commencing telecommunications service,'' as defined in § 54.411 of the Commission's rules, including wireless activation fees. Where wireless telecommunications service is provided to an eligible resident of tribal lands, such charges may also continue to include ''facilities-based'' charges associated with the construction of facilities needed to initiate service, as provided in § 54.411(a)(3).

15. *Florida Commission Petition*. We deny the Florida Commission's requests for reconsideration. We disagree with the Florida Commission's contention that the expansion of the existing Lifeline program may be without clear statutory authority and without support in the record. As the Commission explained in the *Twelfth Report and Order and Further Notice of Proposed*

Rulemaking, the authority to provide additional federal Lifeline and Link-Up assistance and broaden consumer qualification criteria for low-income consumers on tribal lands derives from sections 1, 4(i), 201, 205, and section 254 of the Act. The Commission concluded that the unavailability or unaffordability of telecommunications service on tribal lands is at odds with its statutory goal of ensuring access to such services to ''[c]onsumers in all regions of the Nation, including low-income consumers.'' The Commission further concluded that the lack of access to affordable telecommunications services on tribal lands is inconsistent with its statutory directive ''to make available, so far as possible, to all the people of the United States, without discrimination on the basis of race, color, religion, national origin, or sex, a rapid, efficient Nationwide * * * wire and radio communication service, with adequate facilities at reasonable charges.'' The Commission also determined that its actions were consistent with its general authority to ''perform any and all acts, make such rules and regulations, and issue such orders, not inconsistent with this Act, as may be necessary in the execution of its functions.''

16. In addition, the evidence and record before us at the time supported the expansion of the Lifeline and Link-Up program and nothing on reconsideration persuades us otherwise. In reaching the decision to enhance Lifeline and Link-Up assistance, the Commission relied on statistical evidence that demonstrated that American Indian and Alaska Native communities on average have the lowest reported telephone subscribership levels in the country. For example, the Commission noted that, according to the most recent census data, although approximately 94 percent of all Americans have a telephone, only 47 percent of Indians on reservations and other tribal lands have a telephone. In addition to these statistics, other statistical evidence, as well as the majority of comments, demonstrated that low incomes and poverty are the key reasons for low subscribership levels on tribal lands. Along with these conditions, the record also identified other factors as impediments to subscribership. These included: (1) The cost of basic service in certain areas (as high as $38 per month in some areas); (2) the cost of intrastate toll service (limited local calling areas); (3) inadequate telecommunications infrastructure and the cost of line extensions and facilities deployment in remote, sparsely populated areas; and (4) the lack of competitive service providers offering alternative technologies. Finally, the record demonstrated that non-Indian, low-income households on tribal lands may face the same or similar economic and geographic barriers as those faced by low-income Indian households. After careful consideration of this evidence, the Commission concluded that specific and immediate action was needed to remedy the disproportionately lower levels of infrastructure deployment and subscribership prevalent among tribal communities to ensure affordable access to telecommunications services in these areas.

17. We also reject the Florida Commission's contention that the creation of a fourth tier of federal Lifeline support available to eligible telecommunications carriers serving qualifying low-income individuals living on tribal lands ''may raise issues of discrimination.'' Specifically, the Florida Commission ''questions whether there is any discriminatory impact by singling out Native American and Alaska tribal areas for the benefit of up to an additional $25.00 per primary residential line.'' The Florida Commission adds that ''[i]f the goal is to increase subscribership for these populations, we respectfully request first increasing efforts to enroll qualified low-income Native Americans and Alaskan Natives in the already existing Lifeline and Link-Up programs.''

18. The goal of the *Twelfth Report and Order and Further Notice of Proposed Rulemaking* was not, as the Florida Commission implies, to increase subscribership solely among low-income Native American and Alaskan Natives. As explained, the Commission recognized that American Indian and Alaska Native communities, on average, have the lowest reported telephone subscribership levels in the country. In response, the Commission adopted amendments to its universal service rules to provide additional, targeted support under the low-income programs for all qualifying low-income individuals on tribal lands, as opposed to limiting these benefits solely to qualifying low-income tribal members on tribal lands. In addition, the Commission noted that its efforts in the *Twelfth Report and Order and Further Notice of Proposed Rulemaking* represent only the first step in addressing the causes of low subscribership within underserved and unserved areas. The Commission therefore continues to monitor the causes of low subscribership throughout the Nation and will be addressing this important issue on an ongoing basis. Accordingly, we do not find that our rules raise issues of discrimination.

4. Qualification Criteria for Enhanced Lifeline and Link-Up Service

19. We also clarify, on our own motion, the Federal default qualification criteria for enhanced Lifeline and Link-Up service as set forth in § 54.409(c) of the Commission's rules. As discussed, in the *Twelfth Report and Order and Further Notice of Proposed Rulemaking*, the Commission modified its universal service rules to increase access to telecommunications services among low-income individuals on tribal lands. In particular, the Commission created a fourth tier of federal Lifeline support to substantially reduce the cost of basic telephone service for such individuals. In addition, the Commission revised its rules governing the Link-Up program to provide increased federal support to reduce the costs of initial connection charges and line extension charges. Finally, the Commission broadened the federal default qualification criteria to enable low-income individuals living on tribal lands to qualify for this enhanced support by certifying their participation in certain additional means-tested assistance programs. We make this clarification to ensure that those otherwise eligible to participate in the enhanced programs will have the full opportunity to do so.

20. We take this opportunity to clarify that a low-income individual living on tribal lands in a state that mandates state Lifeline support shall be eligible for Tiers One, Two, Three, and Four of federal Lifeline support if the consumer meets the eligibility criteria established by the state for such support. If the consumer does not meet the eligibility criteria established by the state for such support, or if the consumer lives in a state that does not mandate state Lifeline support, the consumer living on tribal lands may qualify for Tiers One, Two, and Four of federal Lifeline support if the consumer participates in at least one of the following nine programs: Bureau of Indian Affairs General Assistance, Tribally-Administered Temporary Assistance for Needy Families, Head Start (only those meeting its income qualifying standard), the National School Lunch Program's free lunch program, Medicaid, Food Stamps, Supplemental Security Income, Federal Public Housing Assistance (Section 8) or the Low-Income Home Energy Assistance Program. In addition, such consumer may still be eligible to receive Tier Three of federal Lifeline support, as described in § 54.403(a)(3) of the Commission's rules, if the ETC

offering the Lifeline service provides carrier-matching funds. We strongly encourage eligible carriers to ensure that customer service representatives handling inquiries about the universal service low-income programs, especially enhanced Lifeline and Link-Up, are trained with regard to the operative eligibility criteria as clarified in this Order. We also take this opportunity to reiterate that the Commission's rules require eligible carriers to publicize the availability of Lifeline and Link-Up services in a manner reasonably designed to reach those likely to qualify for those services.

III. Report and Order Addressing the Further Notice of Proposed Rulemaking in the *Twelfth Report and Order*

A. Discussion

21. We decline to adopt a rule at this time that would require state commissions to resolve the merits of any request for designation under section 214(e) within six months or some shorter period. We conclude that such action is unnecessary at this time. In so doing, we note that a number of ETC designation requests pending at the time of release of the *Twelfth Report and Order and Further Notice of Proposed Rulemaking* have been resolved by state commissions. We commend these state commissions for resolving those designation requests. We continue to encourage state commissions to act with the appropriate analysis yet as expeditiously as possible on all such requests. In addition, we note that a state's action on ETC designation requests may be reviewed under section 253 as a potential barrier to entry. Although we continue to encourage states to address such requests in a timely manner, we find no need for further action at this time.

22. In addition, we disagree with those commenters who suggest that the Commission should adopt a rule requiring resolution within six months of all ETC designations filed with the Commission, including requests for designation on tribal lands. In the *Twelfth Report and Order and Further Notice of Proposed Rulemaking*, the Commission committed to resolve the merits of any request for designation on tribal lands within six months of release of an order resolving the jurisdictional issue. We decline, however, to extend this commitment to resolution of the jurisdictional issues presented in tribal ETC designation proceedings. As the Commission noted in the *Twelfth Report and Order and Further Notice of Proposed Rulemaking*, the determination of whether a state commission lacks jurisdiction over a carrier providing service on tribal lands is a legally complex inquiry that may require additional time to fully address. The Commission also has specifically committed to resolving, within six months from the date filed, all designation requests for non-tribal lands that are properly before it pursuant to section 214(e)(6). The Commission has acted expeditiously on all ETC requests filed since the release of the *Twelfth Report and Order and Further Notice of Proposed Rulemaking*. We conclude, therefore, that no further measures beyond those adopted in the *Twelfth Report and Order and Further Notice of Proposed Rulemaking* are required at this time to expedite the resolution of ETC designation requests filed before this Commission.

IV. Order Addressing the Request of the Commonwealth of Northern Mariana Islands

A. Discussion

23. We decline, at this time, to extend to the Northern Mariana Islands the same measures that were adopted to promote subscribership on tribal lands. The record is insufficient to establish that the Northern Mariana Islands has the same impediments to subscribership and infrastructure investment as tribal lands.

24. The actions taken by the Commission in the *Twelfth Report and Order and Further Notice of Proposed Rulemaking* were designed to address impediments to subscribership and infrastructure investment on tribal lands, where high cost service and low subscribership are most egregious. The Commission identified a number of factors that are primary impediments to subscribership on tribal lands, including the cost of basic service, the cost of intrastate toll service, inadequate telecommunications infrastructure and the cost of line extensions, and the lack of competitive service providers offering alternative technologies. We find that CNMI has not provided any information that would allow us to identify the main impediments to subscribership on the Northern Mariana Islands (*e.g.*, geographic isolation, limited local calling areas, cost of basic service). CNMI merely asserts that the Northern Mariana Islands has low telephone penetration rates, low income levels, and a trust relationship with the federal government that is similar to that of tribal communities. Given the lack of specific information in the record, we cannot conclude that the enhanced low-income programs established for tribal lands would be effective in addressing the causes of low subscribership rates on the Northern Mariana Islands.

25. We note that the Commission specifically chose not to apply the actions taken in the *Twelfth Report and Order and Further Notice of Proposed Rulemaking* more generally to all high-cost areas and all insular areas, which would have included the Northern Mariana Islands. The Commission found that, although the record demonstrated that subscribership levels are below the national average in other low-income, rural areas and in certain insular areas, it did not permit a determination that the factors causing low subscribership on tribal lands are the same factors causing low subscribership among other populations. We find that CNMI has not provided any evidence that would lead us to depart from this determination. Specifically, CNMI has not demonstrated that the Northern Mariana Islands has low penetration rates and low per capita incomes that are similar to those on tribal lands. Although CNMI provides 1995 data suggesting that telephone penetration rates and per capita incomes on the Northern Mariana Islands are below the national average, even these statistics exceed those that exist on tribal lands. In the *Twelfth Report and Order and Further Notice of Proposed Rulemaking,* the Commission noted that subscribership on reservations was approximately 47 percent and per capita incomes were only $4,478. By comparison, CNMI indicates that the subscribership rates in the Northern Mariana Islands is 61 percent and per capita income is $6,897. We therefore deny CNMI's request to extend to the Northern Mariana Islands the same measures adopted by the Commission to boost subscribership levels on tribal lands. As noted, however, the Commission continues to monitor the causes of low subscribership and develop appropriate measures to address these causes as necessary.

V. Procedural Matters

Supplemental Final Regulatory Flexibility Analysis

26. As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Tribal Stay Order and Further Notice of Proposed Rulemaking.* The Commission sought written public comment on the proposals in the Further Notice of Proposed Rulemaking, including comment on the IRFA. In addition, a Final Regulatory Flexibility Analysis (FRFA) and IRFA were included in the *Twelfth Report and Order and Further*

Notice of Proposed Rulemaking. In compliance with the RFA, this present FRFA supplements the FRFA contained in the *Twelfth Report and Order and Further Notice of Proposed Rulemaking* to the extent that changes to that Order adopted here on reconsideration require changes in the conclusions reached in the FRFA.

1. Need for and Objectives of the Order

27. The Commission issues this Order to ensure that enhanced Lifeline and Link-Up support is targeted to only the most underserved segments of our Nation. The Commission takes this action as part of its implementation of the Act's mandate that ''[c]onsumers in all regions of the Nation * * * have access to telecommunications and information services * * *.'' In this Order, we affirm that the framework adopted by the Commission for resolution of ETC designations on tribal lands provides a reasonable means to facilitate the expeditious resolution of such requests, while balancing the respective federal, state, and tribal interests. In addition, we conclude that the definition of ''reservation'' for purposes of the universal service programs remains the same as that adopted in the *Twelfth Report and Order and Further Notice of Proposed Rulemaking* despite the Bureau of Indian Affairs' (BIA) subsequent modification of that definition for purposes of its direct assistance programs. We also clarify the Commission's rules regarding the qualification criteria for enhanced Lifeline and Link-Up service.

2. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

28. We received no comments directly in response to the IRFA in this proceeding. However, we reconsider our conclusion that Link-Up support should offset a portion of the costs of a wireless handset. Pending resolution of the issues presented in the *Tribal Stay Order*, we also conclude that carriers seeking designation as an ETC on ''near reservation'' areas must follow the procedures established for non-tribal designations in the *Twelfth Report and Order and Further Notice of Proposed Rulemaking*.

3. Description and Estimate of the Number of Small Entities to Which Rules Will Apply

29. In the FRFA at paragraphs 162–178 of the *Twelfth Report and Order and Further Notice of Proposed Rulemaking*, we described and estimated the number of small entities that would be affected by the new universal service rules and amendments for low-income consumers residing on tribal lands. The rule amendments adopted herein apply to the same entities affected by the rules adopted in that order. We therefore incorporate by reference paragraphs 162–178 of the *Twelfth Report and Order and Further Notice of Proposed Rulemaking*.

4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

30. The actions taken herein will require carriers seeking designation as an ETC on near reservation areas to file such requests with the relevant state commission. Pending resolution of the issues presented in the *Tribal Stay Order and Further Notice of Proposed Rulemaking*, only in those instances where a carrier provides the Commission with an affirmative statement from a court of competent jurisdiction or the state commission that it lacks jurisdiction to perform the designation will we consider section 214(e)(6) designation requests from carriers serving near reservation areas.

5. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

31. In this Order, we confirm that the definition of ''reservation'' for purposes of the universal service programs remains the same as that adopted in the *Twelfth Report and Order and Further Notice of Proposed Rulemaking*. This decision will not result in a significant economic impact on small entities. We also conclude that Link-Up support should not offset any costs of a wireless handset. Given that Link-Up support is a one-time reduction in the eligible consumer's connection charge, we do not believe that this decision will result in a significant economic impact on any small wireless entities.

6. Report to Congress

32. The Commission will send a copy of this Order, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of the Order, including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the Order and FRFA (or summaries thereof) will also be published in the **Federal Register**. *See* 5 U.S.C. 604(b).

VI. Ordering Clauses

33. Accordingly, it is ordered that, pursuant to the authority contained in sections 1–4, 214(e), and 254 of the Communications Act of 1934, as amended, and 254, and § 1.429 of the Commission's rules, this Order on Reconsideration and Report and Order is adopted.

34. It is further ordered that the captioned petitions for reconsideration of the *Twelfth Report and Order and Further Notice of Proposed Rulemaking* are denied, to the extent discussed herein.

35. It is further ordered that the petition for reconsideration of the National Telephone Cooperative Association, filed on September 5, 2000, is granted, to the extent discussed herein.

36. It is further ordered that the petition for reconsideration of the South Dakota Independent Telephone Coalition, filed on September 5, 2000, is granted in part and denied in part, to the extent discussed herein.

37. It is further ordered that part 54 of the Commission's rules, is amended as set forth, effective August 15, 2003.

38. It is further ordered that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 54

Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

Ruth A. Dancey,

Special Assistant to the Secretary.

Final Rules

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 54 as follows:

PART 54—UNIVERSAL SERVICE

■ 1. The authority citations continue to read as follows:

Authority: 47 U.S.C. 1, 4(i), 201, 205, 214, and 254 unless otherwise noted.

■ 2. Amend § 54.400 by revising paragraph (e) and the note to paragraph (e) to read as follows:

§ 54.400 Terms and definitions.

* * * * *

(e) *Eligible resident of Tribal lands.* An ''eligible resident of Tribal lands'' is a ''qualifying low-income consumer,'' as defined in paragraph (a) of this section, living on or near a reservation. A ''reservation'' is defined as any federally recognized Indian tribe's reservation,

pueblo, or colony, including former reservations in Oklahoma, Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), and Indian allotments. ''Near reservation'' is defined as those areas or communities adjacent or contiguous to reservations which are designated by the Department of Interior's Commission of Indian Affairs upon recommendation of the local Bureau of Indian Affairs Superintendent, which recommendation shall be based upon consultation with the tribal governing body of those reservations, as locales appropriate for the extension of financial assistance and/or social services, on the basis of such general criteria as: Number of Indian people native to the reservation residing in the area; a written designation by the tribal governing body that members of their tribe and family members who are Indian residing in the area, are socially, culturally and economically affiliated with their tribe and reservation; geographical proximity of the area to the reservation, and administrative feasibility of providing an adequate level of services to the area.

Note to paragraph (e): The Commission stayed implementation of paragraph (e) as applied to qualifying low-income consumers living ''near reservations'' on August 31, 2000 (15 FCC Rcd 17112).

■ 3. Amend § 54.409 by revising the third sentence of paragraph (a), and the first and third sentence of paragraph (c) to read as follows:

§ 54.409 Consumer qualification for Lifeline.

(a) * * * A state containing geographic areas included in the definition of ''reservation'' and ''near reservation,'' as defined in § 54.400(e), must ensure that its qualification criteria are reasonably designed to apply to low-income individuals living in such areas.

* * * * *

(c) A consumer that lives on a reservation or near a reservation, but does not meet the qualifications for Lifeline specified in paragraphs (a) and (b) of this section, nonetheless shall be a ''qualifying low-income consumer'' as defined in § 54.400(a) and thus an ''eligible resident of Tribal lands'' as defined in § 54.400(e) and shall qualify to receive Tiers One, Two, and Four Lifeline service if the individual participates in one of the following federal assistance programs: Bureau of Indian Affairs general assistance; Tribally administered Temporary Assistance for Needy Families; Head Start (only those meeting its income qualifying standard); or National School Lunch Program's free lunch program. * * * To receive Lifeline support under this paragraph for the eligible resident of Tribal lands, the eligible telecommunications carrier offering the Lifeline service to such consumer must obtain the consumer's signature on a document certifying under penalty of perjury that the consumer receives benefits from at least one of the programs mentioned in this paragraph or paragraph (b) of this section, and lives on or near a reservation, as defined in § 54.400(e). * * *

[FR Doc. 03–17567 Filed 7–15–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 94–129; FCC 03–42]

Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: This document announces the effective date of certain sections of the Commission's rules regarding unauthorized changes of consumers' preferred telecommunications service providers. Certain sections of the rules contained information collection requirements that required the approval of the Office of Management and Budget (''OMB'') before they could become effective. Those sections have been approved by OMB.

DATES: The amendments to 47 CFR sections 64.1120(c)(3)(iii), 64.1130(j), 64.1150(b), 64.1160(g), 64.1170(g), 64.1180, to the requirements concerning local exchange carrier verification of in-bound carrier changes, and to certifications to exempt carriers from the drop-off requirement, released by the Commission on March 17, 2003, and a summary of which was published at 68 FR 19152, April 18, 2003, will become effective on July 16, 2003.

FOR FURTHER INFORMATION CONTACT: Perlesta Hollingsworth of the Policy Division, Consumer & Governmental Affairs Bureau at (202) 418–7383, TTY (202) 202 418–7365 (tty).

SUPPLEMENTARY INFORMATION: On March 17, 2003, the Commission released the Third Order on Reconsideration and Second Further Notice of Proposed Rulemaking (Order). The Order revised and clarified certain rules to implement Section 258 of the Communications Act. The rules and requirements implementing Section 258 can be found primarily at 47 CFR part 64. The modifications and additions adopted in the Order will improve the carrier change process for consumers and carriers, while making it more difficult for unscrupulous carriers to perpetrate slams. The Commission released the Order on March 17, 2003. In addition, a summary of the Order was published in the **Federal Register** at 68 FR 19152, April 18, 2003. On July 1, 2003, the Commission received approval for the information collection requirements, Implementation of Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers, OMB Control Number 3060–0787, contained in the Order pursuant to the ''emergency processing'' provisions of the Paperwork Reduction Act of 1995 (5 CFR 1320.13). Questions concerning OMB control numbers and expiration dates should be directed to Les Smith, Federal Communications Commission, (202) 418–0217 or via the Internet to *leslie.smith@fcc.gov.*

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–17976 Filed 7–15–03; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

[Docket No. 020319061–3166–03; I.D. 070803G]

RIN 0648–AP81

Sea Turtle Conservation Measures for the Pound Net Fishery in Virginia Waters

AGENCY: National Marine Fisheries Service (NOAA Fisheries), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary final rule.

SUMMARY: NOAA Fisheries is prohibiting the use of all pound net leaders in the Virginia waters of the mainstem Chesapeake Bay effective immediately through July 30, 2003. The

affected area includes all Chesapeake Bay waters between the Maryland and Virginia state line (approximately 38° N. lat.) and the COLREGS line at the mouth of the Chesapeake Bay, and the waters of the James River, York River, and Rappahannock River downstream of the first bridge in each tributary. This action, taken under the Endangered Species Act of 1973 (ESA), is necessary to conserve sea turtles listed as threatened or endangered.

DATES: Effective July 16, 2003, through July 30, 2003.

ADDRESSES: Requests for copies of the literature cited, the Environmental Assessment (EA), or Regulatory Impact Review (RIR) should be addressed to the Assistant Regional Administrator for Protected Resources, NOAA Fisheries, One Blackburn Drive, Gloucester, MA 01930. Requests for supporting documents may also be sent via fax to 978–281–9394.

FOR FURTHER INFORMATION CONTACT: Mary Colligan (ph. 978–281–9116, fax 978–281–9394), or Barbara Schroeder (ph. 301–713–1401, fax 301–713–0376).

SUPPLEMENTARY INFORMATION:

Background

Pound net leaders with greater than or equal to 12 inches (30.5 cm) stretched mesh and leaders with stringers have been documented to incidentally take sea turtles (Bellmund *et al.*, 1987). High strandings of threatened and endangered sea turtles are documented on Virginia beaches each spring, and the number of strandings has increased in recent years. No cause of mortality is immediately apparent for the majority of turtles that strand in Virginia, but the circumstances surrounding the recent stranding events are consistent with fishery interactions in that a majority of the carcasses are undamaged and when examined seemed healthy. A discussion on fisheries interactions and strandings are provided in the preambles to the proposed rule (67 FR 15160, March 29, 2002) and the interim final rule (67 FR 41196, June 17, 2002). In light of documented entanglement in pound net leaders and high strandings in the vicinity of pound net operations, on June 17, 2002, NOAA Fisheries issued an interim final rule that prohibited the use of all pound net leaders measuring 12 inches (30.5 cm) and greater stretched mesh and all pound net leaders with stringers in the Virginia waters of the mainstem Chesapeake Bay and portions of the Virginia tributaries from May 8 to June 30 each year (67 FR 41196). Included in this interim final rule was a year-round requirement for fishermen to report all interactions with sea turtles in their pound net gear to NOAA Fisheries within 24 hours of returning from the trip and a year-round requirement for pound net fishing operations to be observed by a NOAA Fisheries-approved observer if requested by the Northeast Regional Administrator. The interim final rule also established a framework mechanism by which NOAA Fisheries may make changes to the restrictions and/or their effective dates on an expedited basis in order to respond to new information and protect sea turtles. Under this framework mechanism, if NOAA Fisheries receives information that a significant level of strandings will likely continue beyond June 30, the Assistant Administrator, NOAA, (AA) may extend the effective dates of the restrictions established by the regulations. Additionally, if monitoring of pound net leaders during the time frame of the gear restriction, May 8 through June 30 of each year, reveals that if one or more sea turtles are entangled alive in a pound net leader less than 12 inches (30.5 cm) stretched mesh or that one sea turtle is entangled dead and NOAA Fisheries determines that the entanglement contributed to its death, then NOAA Fisheries may determine that additional restrictions are necessary to conserve sea turtles and prevent entanglements. The restrictions that may be implemented are limited to the alternatives previously considered in the EA. These alternatives included: (1) The restriction of all pound net leaders measuring 8 inches (20.3 cm) or greater stretched mesh; (2) the prohibition of all pound net leaders regardless of mesh size; and (3) the restriction of pound net leaders with greater than 16 inches stretched mesh and the modification of all other leaders with stringers by dropping the leader mesh 9 feet below mean low water and spacing stringer lines at least 3 feet apart. The interim final rule stated that should an extension of the effective dates of the prohibition of pound net leaders measuring 12 inches (30.5 cm) or greater stretched mesh and pound net leaders with stringers be necessary or should NOAA Fisheries determine that an additional restriction is warranted, NOAA Fisheries would issue a rule. This rule would explicitly state the duration of the extension of the prohibition or the new mandatory gear restriction and the time period, which could also be extended for up to 30 days but not beyond July 30.

Details concerning the justification for the previous pound net leader restriction regulations and the previous high sea turtle stranding events in Virginia were provided in the preambles to the proposed rule (67 FR 15160, March 29, 2002) and the interim final rule (67 FR 41196, June 17, 2002) and are not repeated here.

2003 Pound Net Monitoring

From April 21 to June 11, 2003, NOAA Fisheries monitored pound net leaders with stretched mesh measuring less than 12 inches (30.5 cm), as well as sea turtle stranding levels and other fisheries active in the Virginia Chesapeake Bay and ocean waters. This monitoring effort resulted in the documentation of 17 sea turtles found in association with pound net leaders. The first documented sea turtle was found impinged on a pound net leader on May 11, and sea turtles were documented in leaders through June 11 when the monitoring program ceased. In total, 12 sea turtles were found held against or impinged on pound net leaders by the current. Of these 12 impingements, 11 were loggerhead sea turtles (one of which was dead) and one was a Kemp's ridley sea turtle (alive). There were an additional five sea turtles found entangled in pound net leaders, of which two were loggerheads (one dead) and three were Kemp's ridleys (two dead). Eleven of the 17 incidents involved leaders measuring 11.5 inches (29.2 cm) stretched mesh, while six of the sea turtles were entangled or impinged in 8 inch (20.3 cm) stretched mesh leaders. Most of the observed sea turtles were found in nets along the Eastern shore of Virginia, but two turtles were found in leaders near Mobjack Bay in the Western Chesapeake Bay.

As stated in the 2002 interim final rule, if even one sea turtle is entangled alive or if one sea turtle is entangled dead, and NOAA Fisheries determines that the entanglement contributed to its death, additional restrictions may be implemented by the publication of a final rule in the **Federal Register**. The spring 2003 monitoring effort documented two live sea turtles entangled in pound net leaders with 11.5 inches (29.2 cm) stretched mesh, and three dead sea turtles entangled in pound net leaders with either 11.5 inches (29.2 cm) or 8 inches (20.3 cm) stretched mesh. NOAA Fisheries believes that there is sufficient information to conclude that the death of these turtles is attributable to entanglement in the pound net leaders, given the degree of entanglement and multiple wrapping of line around their flippers, their decomposition state (fresh dead to moderately decomposed), and their buoyancy (negatively buoyant, which typically suggests recent mortality). Given these monitoring

results documenting the entanglement of sea turtles in leaders with less than 12 inches (30.5 cm) stretched mesh, additional restrictions are warranted.

2003 Spring Stranding Event

As mentioned, high strandings of threatened and endangered sea turtles are documented on Virginia beaches each spring. The magnitude of this stranding event has increased in recent years. During May and June, total reported Virginia sea turtle strandings were 84 in 1995, 85 in 1996, 164 in 1997, 181 in 1998, 129 in 1999, 155 in 2000, 265 in 2001, and 182 in 2002. In 2003, preliminary data indicate that 302 dead sea turtles stranded on Virginia beaches during May and June.

The 2003 spring stranding season in Virginia began later than usual. Based upon historical Sea Turtle Stranding and Salvage Network (STSSN) data, strandings in Virginia typically begin in mid-May, with strandings remaining elevated until June 30. In the spring of 2003, water temperatures were relatively cool in Virginia. The first sea turtle stranding was documented on May 18, but stranding levels were relatively low until June. In May, 22 dead animals stranded, and in June, 280 dead sea turtles were documented. The majority of the 2003 spring strandings occurred during the last two weeks in June and continue through July with a total of 27 documented through July 5.

Approved Measures

To conserve sea turtles, the AA prohibits the use of all pound net leaders in the Virginia waters of the mainstem Chesapeake Bay and portions of the Virginia tributaries effective through July 30, 2003. The area where this gear restriction applies includes the Virginia waters of the mainstem Chesapeake Bay from the Maryland-Virginia state line (approximately 37°55′ N. lat., 75°55′ W. long.) to the COLREGS line at the mouth of the Chesapeake Bay; the James River downstream of the Hampton Roads Bridge Tunnel (I–64; approximately 36°59.55′ N. lat., 76°18.64′ W. long.); the York River downstream of the Coleman Memorial Bridge (Route 17; approximately 37°14.55′ N. lat, 76°30.40′ W. long.); and the Rappahannock River downstream of the Robert Opie Norris Jr. Bridge (Route 3; approximately 37°37.44′ N. lat, 76°25.40′ W. long.).

NOAA Fisheries recognizes that there may be a localized interaction between sea turtles and pound nets along the Eastern shore, as that is the area where most of the sea turtles have been observed in pound net gear this spring. Given that one or more turtles have been found entangled live and dead in pound net leaders with less than 12 inch (30.5 cm) stretched mesh, NOAA Fisheries has the authority to implement additional restrictions this year. Under the framework provision included in the 2002 interim final rule, only an option previously analyzed in the EA may be considered. Given the amount of time it takes to order, purchase, and hang a leader and the timing of this rule related to the sunset date (July 30, 2003), restricting leaders with 8 inches (20.3 cm) or greater stretched mesh would be effectively the same as restricting all leaders regardless of mesh size. Further, given the data collected this spring, sea turtle impingement on leaders of various sizes is a more significant problem than originally believed and this impingement may continue to occur on leaders with less than 8 inches (20.3 cm) stretched mesh in the areas where impingements were previously documented. Prohibiting all leaders throughout the Virginia Chesapeake Bay is the only available option that will reduce sea turtle entanglements and impingements in pound net leaders.

As mentioned previously, the Virginia stranding season has been relatively late this year. As strandings were highest in the latter half of June and remained elevated through June 30, NOAA Fisheries believes that elevated strandings could continue into the end of July and that an extension of the prohibition of all pound net leaders is warranted until July 30, 2003.

This prohibition of pound net leaders is effective July 16, 2003, through July 30, 2003. In subsequent years, the original restrictions included in the 2002 interim final rule will be in effect (*i.e.*, restriction of pound net leaders measuring 12 inches (30.5 cm) or greater stretched mesh and pound net leaders with stringers from May 8 to June 30 each year), unless modified or replaced by a new rule. For the duration of this gear prohibition, fishermen are required to stop fishing with all pound net leaders in the designated area.

The year-round reporting and monitoring requirements for this fishery established by the 2002 interim final rule remain in effect.

Classification

This rule has been determined to be not significant for the purposes of Executive Order 12866.

The AA finds that providing prior notice and an opportunity to comment on this rule would be impracticable and contrary to the public interest. 50 CFR 223.206(d)(2)(v)(E) allows NOAA Fisheries to modify restrictions on pound net leaders and extend the effective date of those restrictions until July 30 each year if, in leaders complying with those regulations, one or more sea turtles are found entangled live or one or more sea turtles are found entangled dead and the entanglement contributed to its death. Turtles have recently been found entangled in leaders that comply with the regulations, and are at immediate risk of additional harm if no additional protections are implemented. If NOAA Fisheries were to provide notice and an opportunity to comment, it would pass the July 30 date on which the effectiveness of any restictions lapses and miss the opportunity to provide additional protections for the sea turtles that will still be in the areas. Therefore, the AA finds good cause exists under 5 U.S.C. 553(b)(B) to waive the requirement for prior notice and opportunity for public comment.

The AA finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day effective date of this final rule. Such a delay would be contrary to the public interest because sea turtles are currently present in Virginia waters and are being subject to entanglement and impingement in pound net leaders and potential subsequent mortality. Any delay in the effective date of this final rule would prevent NOAA Fisheries from meeting its obligations under the ESA to prevent harm to sea turtles.

NOAA Fisheries previously prepared a final regulatory flexibility analysis (FRFA) which describes the impact the 2002 interim final rule would have on small entities. The FRFA considered the potential implementation of the framework provision and the alternative currently proposed for implementation (*i.e.* prohibition of all pound net leaders). Nevertheless, because prior notice and opportunity for comment are not required for this rule by 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act are inapplicable.

List of Subjects 50 CFR Part 223

Administrative practice and procedure, Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements.

Dated: July 10, 2003.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

■ For the reasons set forth in the preamble, 50 CFR part 223 is amended as follows:

PART 223—THREATENED MARINE AND ANADROMOUS SPECIES

■ 1. The authority citation for Part 223 continues to read as follows:

Authority: 16 U.S.C. 1531 *et. seq.*; 16 U.S.C. 742a *et. seq.*; 31 U.S.C. 9701.

■ 2. In § 223.206, paragraph (d)(2)(v)(F) is added to read as follows:

§ 223.206 Exceptions to prohibitions relating to sea turtles.

* * * * *

(d) * * *

(2) * * *

(v) * * *

(F) *Additional restrictions for pound net leaders through July 30, 2003.* Based upon 2003 spring monitoring results and the framework provision noted in paragraph (d)(2)(v)(E) of this section, from July 16, 2003 to July 30, 2003, all pound net leaders are prohibited and must be removed from the waters described in paragraph (d)(2)(v)(B) of this section.

* * * * *

[FR Doc. 03–17873 Filed 7–15–03; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 030227050–3082–02; I.D. 071003E]

Fisheries of the Northeastern United States; Spiny Dogfish Fishery; Commercial Annual Quota Harvested

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure; commercial fishery.

SUMMARY: NMFS announces that the annual spiny dogfish commercial quota available to the coastal states from Maine through Florida for the fishing year, May 1, 2003 - April 30, 2004, has been harvested. Federally permitted commercial vessels may no longer land spiny dogfish for the duration of the fishing year (through April 30, 2004), whether fishing occurs in the Exclusive Economic Zone (EEZ) or within state waters. Regulations governing the spiny dogfish fishery require publication of this notification to advise the coastal states from Maine through Florida that the quota has been harvested and to advise vessel permit holders and dealer permit holders that no Federal commercial quota is available for landing spiny dogfish in these states.

DATES: Quota period 1 is closed effective at 0001 hrs, local time, July 18, 2003, through 2400 October 31, 2003. Quota period 2 is closed effective at 0001 hrs, local time, November 1, 2003, and remains closed through 2400 hrs local time, April 30, 2004.

FOR FURTHER INFORMATION CONTACT: Eric Jay Dolin, Fishery Policy Analyst, at (978) 281–9259, or Eric.Dolin@Noaa.gov.

SUPPLEMENTARY INFORMATION:

Regulations governing the spiny dogfish fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota, which is allocated into two quota periods based upon percentages specified in the fishery management plan. The commercial quota is distributed to the coastal states from Maine through Florida as described in § 648.230.

The initial total commercial quota for spiny dogfish for the 2003 fishing year is 4 million lb (1.81 million kg) (68 FR 19160, April 18, 2003). The commercial quota is allocated into two periods (May 1 through October 31, and November 1 through April 30). Vessel possession limits are intended to preclude directed fishing, and they are set at 600 lb (272 kg) and 300 lb (136 kg) for quota periods 1 and 2, respectively. Quota period 1 is allocated 57.9 percent of the quota (2.3 million lb (1.1 million kg)), and quota period 2 is allocated 42.1 percent (1.7 million lb (765,455 kg)) of the commercial quota. The total quota cannot be exceeded, so landings in excess of the amount allocated to quota period 1 have the effect of reducing the quota available to the fishery during quota period 2.

The Administrator, Northeast Region, NMFS (Regional Administrator) monitors the commercial spiny dogfish quota for each quota period and, based upon dealer reports, state data and other available information, determines when the total commercial quota will be harvested. NMFS is required to publish a notification in the **Federal Register** advising and notifying commercial vessels and dealer permit holders that, effective upon a specific date, the Federal spiny dogfish commercial quota will be harvested and no Federal commercial quota is available for landing spiny dogfish for the remainder of a given quota period.

The Regional Administrator has reviewed the performance of the 2002 fishery and the projected impact of the spiny dogfish quota for the 2003 fishing year that was recently adopted by the Atlantic States Marine Fisheries Commission (ASMFC). Before the 2003 fishing year, the ASMFC Spiny Dogfish and Coastal Shark Management Board instituted an emergency action that closed state waters to the commercial harvest, landing, and possession of spiny dogfish when a Federal closure was enacted. Thus, the Federal quota governed the spiny dogfish fishery in both the EEZ and state waters.

For the 2003 fishing year, however, the ASMFC's spiny dogfish quota is set at 8.8 million lb (4 million kg), which is significantly higher than the Federal quota. The ASFMC plan has the same quota periods as the Federal plan, and the quota is divided between those periods in the same way, with 57.9 percent (5.1 million lb; 2.3 million kg) allocated to period 1 and 42.1 percent (3.7 million lb; 1.7 million kg) allocated to period 2. The ASMFC further divided the quota among the states, with 57.9 percent allocated to Maine, New Hampshire and Massachusetts, combined, and 42.1 percent allocated to Rhode Island and states south. In addition, the ASMFC's plan allows up to a 7,000–lb (3,182–kg) possession limit. Thus, after the Federal quota is reached and the EEZ is closed, the dogfish fishery can continue to be prosecuted in state waters by vessels other than those issued Federal spiny dogfish permits until the higher ASFMC quota is reached. Some of the ASFMC member states have also voluntarily decided to apply the Federal daily possession limit of 600–lb (272 kg) of spiny dogfish throughout much of the summer, most likely up until the middle of August. Other ASMFC member states have opted to institute possession limits up to 7,000 lb (3,182 kg) immediately.

During the 2002 fishing year, the Federal dogfish quota for period 1, which began on May 1, 2002, was taken by July 1 of the same year. Based on the 2002 fishery performance and the fact that some of the states have voluntarily decided to postpone the imposition of the ASMFC's higher possession limit, while others have already instituted the higher possession limit, the Regional Administrator has determined that the period 1 Federal quota for the 2003 fishing year will be harvested by July 18, 2003. Furthermore, the Regional Administrator has determined that, once the 7,000–lb (3,182–kg) possession limit goes into effect, the remainder of the annual Federal quota will be taken in short order, certainly well before the beginning of the second quota period on November 1, 2003. Therefore, this action closes the second quota period of the Federal spiny dogfish fishery at 0001 hrs on November 1, 2003.

Section 648.4(b) provides that Federal spiny dogfish permit holders agree, as a condition of the permit, not to land spiny dogfish in any state after NMFS has published notification in the **Federal Register** that the commercial quota has been harvested and that no commercial quota for the spiny dogfish fishery is available. Therefore, effective 0001 hrs local time, July 18, 2003, landings of spiny dogfish in coastal states from Maine through Florida by vessels holding commercial Federal fisheries permits are prohibited through April 30, 2004, 2400 hrs local time. The fishing year 2004 quota for quota period 1 will be available for commercial spiny dogfish harvest on May 1, 2004. Effective July 18, 2003, federally permitted dealers are also advised that they may not purchase spiny dogfish from vessels issued Federal spiny dogfish permits that land in coastal states from Maine through Florida.

Classification

This action is required by 50 CFR part 648 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 11, 2003.

John H. Dunnigan,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 03–17933 Filed 7–11–03; 2:21 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 021212307 3037–02; I.D. 071003C]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Central Aleutian District of the Bering Sea and Aleutian Islands

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch in the Central Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2003 total allowable catch (TAC) of Pacific ocean perch in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 11, 2003, through 2400 hrs, A.l.t., December 31, 2003.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2003 TAC of Pacific ocean perch for the Central Aleutian District was established as 3,090 metric tons (mt) by the final 2003 harvest specifications for groundfish in the BSAI (68 FR 9907, March 3, 2003).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2003 TAC for Pacific ocean perch in the Central Aleutian District will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 2,790 mt, and is setting aside the remaining 300 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will soon be reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the Central Aleutian District of the BSAI.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is contrary to the public interest. This requirement is contrary to the public interest as it would delay the closure of the fishery, lead to exceeding the 2003 TAC for Pacific ocean perch in the Central Aleutian District, and therefore reduce the public's ability to use and enjoy the fishery resource.

The AA also finds good cause to waive the 30–day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 10, 2003.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 03–17970 Filed 7–11–03; 2:02 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 68, No. 136
Wednesday, July 16, 2003

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

7 CFR Parts 3015, 3019 and 3020

Office of the Chief Financial Officer; General Program Administration Regulations

AGENCY: Office of the Chief Financial Officer, USDA.

ACTION: Proposed rule.

SUMMARY: The U.S. Department of Agriculture (USDA) proposes to amend the administrative requirements for all USDA grants and cooperative agreements that are used to document Federal assistance transactions. USDA also proposes to remove the outdated regulations and replace them with streamlined regulations that are applicable to non-profit and for-profit Federal financial assistance recipients. USDA further proposes to implement several additional administrative policies and new requirements.

DATES: Submit comments on or before August 15, 2003.

ADDRESSES: Questions and comments may be addressed to: Ava Lee, Director, Planning and Accountability Division, Office of the Chief Financial Officer, USDA, Stop 9020, 1400 Independence Avenue, SW., Washington DC 20250; FAX (202) 690–3561; telephone (202) 720–1179; E-mail *alee@cfo.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Ava Lee, (202) 720–1179.

SUPPLEMENTARY INFORMATION:

Background

Prior to 1981, departmental regulations required USDA agencies to issue individual, program-specific regulations and directives to implement USDA, Office of Management and Budget (OMB), and other applicable guidance and polices related to Federal program administrative requirements. This was practiced throughout the Federal government and frequently resulted in complaints from program participants about the confusion and duplication in the administration and management of Federal programs.

Public Law No. 95–224, the ''Federal Grant and Cooperative Agreement Act of 1977,'' (FGCA) and the related OMB guidance (43 FR 36860, Aug. 18, 1978), emphasized the need for a uniform policy and the standardization of common administrative requirements for all Federal assistance programs. Consequently, in November 1981, USDA published 7 CFR part 3015, ''Uniform Federal Assistance Regulations'' (46 FR 55636, Nov. 10, 1981). The original purpose for part 3015 was to set out in a single ''uniform'' regulation all requirements that applied to recipients and subrecipients of USDA Federal assistance. In terms of agreement coverage, part 3015 was limited to grants and cooperative agreements as defined by the FGCA.

Experience with this approach soon demonstrated a definite need for specific regulations that recognized the differences between types of recipients, especially as between State and local governments and the various kinds of nonprofit organizations, including universities. Therefore, USDA subsequently participated in a series of government-wide initiatives establishing more specific rules applicable based on the type of recipient. These initiatives simultaneously reduced the scope and effect of part 3015.

In March 1988, USDA joined with other Federal agencies in simultaneously publishing a common rule applicable to State and local government recipients. The USDA rule was codified in 7 CFR part 3016, ''Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.'' (53 FR 8034, Mar. 11, 1988). In November 1993, OMB revised OMB Circular A–110 (58 FR 62992, Nov. 29, 1993). In August 1995, USDA published 7 CFR part 3019, ''Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organizations,'' to implement the revised A–110 (60 FR 44122, Aug. 24, 1995). The definition of ''recipient'' in section 3019.2 authorizes agencies at their discretion to apply part 3019 to for-profit organizations as well. In August 1997, USDA published 7 CFR part 3052, ''Audits of States, Local Governments and Non-Profit Organizations'' (62 FR 45947, Aug. 29, 1997) to implement the requirements of the Single Audit Act Amendments of 1996 and the related revision to OMB Circular A–133. In August 2000, USDA published a final rule to include USDA's entitlement programs within the scope of part 3016 and part 3019 as appropriate (65 FR 49474, Aug. 14, 2000).

As the result of these actions, a substantial portion of the original purpose and scope of part 3015 was transferred to other rules. Currently, part 3015 may be used by USDA agencies as an option to using part 3019 for one remaining type of recipient, for-profit organizations. Part 3015 also includes certain requirements that: (1) Are not included in one or more of the other parts identified above; and (2) are generally applicable to any assistance transactions between USDA and any type of recipient.

In the period since the enactment of the FGCA, and concurrent with all of the regulatory changes set out above, Congress passed a number of acts which included language excluding certain USDA authorities from the FGCA. At a later date and as a separate action, USDA plans to develop a uniform rule for the agreements not covered by this rule such as those that are issued under sections 1472(b) and 1473A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended, 7 U.S.C. 3318 and 3319a, and similar authorities.

Congress has recently taken actions both to improve the general financial management of the Federal government and to specifically improve the effectiveness and performance of Federal assistance programs. Congress enacted the Chief Financial Officers Act of 1990 (CFO Act) for various reasons, including bringing ''* * * more effective general and financial management practices to the Federal Government through statutory provisions which would * * * designate a Chief Financial Officer (CFO) in each executive department and in each major executive agency in the Federal Government'' (31 U.S.C. 501 note, CFO Act sec.102(b)). The CFO Act specifies that the agency CFO ''shall * * * oversee all financial management activities relating to the programs and operations of the agency; * * *'' (31 U.S.C. 902(a)). The Federal Financial

Assistance Management Improvement Act of 1999 (FFAMIA) (Pub. L. 106–107) requires USDA to ''* * * develop and implement a plan that * * * streamlines and simplifies the application, administrative, and reporting procedures for Federal financial assistance programs administered by the agency.'' (31 U.S.C. 6101 note, FFAMIA sec.5).

USDA now proposes the following actions: (1) USDA has concluded that allowing awarding agencies the discretion to choose between two rules for the administration of assistance agreements with for-profit organizations is both unnecessary and confusing. Therefore, USDA proposes to revise part 3019 to require that agencies entering into assistance agreements with for-profit organizations use part 3019 exclusively for the administration of these agreements; (2) The combination of the recent transfer of the entitlement programs and the proposed transfer of for-profit organizations to the administrative requirements of other regulations make much of the text currently in part 3015 unnecessary. Furthermore, a substantial portion of part 3015 is based on superceded OMB guidance that is no longer used by any other Federal agency. Therefore, USDA proposes to revise the current text to remove unneeded language and to improve readability. In addition, to avoid potential confusion, USDA proposes to remove part 3015 in its entirety and replace it with a new part 3020 entitled ''General Program Administration Regulations.'' The table at the end of this preamble provides cross-references between the sections in the current part 3015 and the equivalent sections in the existing parts 3016 and 3019 as well as the proposed part 3020. The proposed part 3020 will apply to all types of recipients, supplementing the regulations in parts 3016 and 3019; (3) To carry out the OCFO oversight responsibilities for financial management activities, USDA proposes to make parts 3020, 3016, and 3019 applicable, as appropriate, to nearly all parties entering into assistance transactions with USDA relating to USDA's programs, including non-governmental international recipients. The proposed rule is intended to establish the basic requirements for USDA's financial management of programs; (4) The proposed rule will be a major step toward conformance with the FFAMIA initiative to simplify the application, administrative, and reporting procedures for the covered Federal programs administered by the agency. In terms of streamlining, the current version of part 3015 consists of 123 sections containing 302KB of information while the proposed version of part 3020 consists of 28 sections containing 90KB of information. In terms of uniformity, the proposed rule will have the effect of placing nearly all of USDA's assistance relationships with non-Federal entities under two administrative rules that codify for USDA the same policies used by the majority of other Federal Departments. Further streamlining is expected to occur over the coming months and years. OMB published notices in the **Federal Register** on August 12, 2002 (67 FR 52544–52560, Aug. 12, 2002) that propose to standardize the announcement format for discretionary grants and cooperative agreements across government agencies. Also, a standard set of data elements has been proposed to standardize the electronic posting of funding announcements. When they are finalized, USDA expects that parts 3016, 3019 and 3020, and particularly §§ 3016.10, 3019.12 and 3020.15 will be amended to reflect the implementation of FFAMIA; (5) USDA has corrected the reference to USDA's audit regulation in 7 CFR 3019.26 to reflect the correct citation of 7 CFR part 3052; and, (6) USDA also proposes to include in part 3020 the additional specific requirements itemized below.

Summary of Proposed Rule 3020

The following paragraphs provide a summary of the various revisions and sections of this proposed rule 3020. Following the summary is a table that cross-references each section of part 3015 and indicates the comparable sections in parts 3016 and 3019 and proposed part 3020.

Changes to Part 3019

USDA proposes to amend the title of part 3019 and revise §§ 3019.1, 3019.2, and 3019.5 to include for-profit organizations within the scope of part 3019. The proposed revision in § 3019.26(a) replaces the reference to the Single Audit Act Amendments of 1996 (31 U.S.C. 7501–7507) and the OMB Circular A–133 with a reference to part 3052, ''AUDITS OF STATES, LOCAL GOVERNMENTS, AND NON-PROFIT ORGANIZATIONS,'' the USDA regulation implementing OMB Circular A–133.

Part 3020—General Program Administration Regulations

Subpart A—General

Section 3020.1 Purpose. No substantive change from part 3015.

Section 3020.2 Applicability. This section lists which USDA agreements and recipients are covered by this rule and the exceptions to this rule. The applicability of proposed part 3020 is broader than that of part 3015. Proposed part 3020 will apply to all USDA agreements, including memoranda of understanding, not explicitly excepted. Part 3015 applies only to assistance agreements.

Section 3020.3 Conflicting policies and deviations. This section simplifies current section 3015.3. Proposed section 3020.3 clarifies that unless authorized by statute or by a waiver by OCFO, the requirements in part 3020 will take precedence over any USDA agency specific regulations.

Section 3020.4 Other regulations applicable to USDA agreements. This section lists other regulations that currently apply to some or all cover USDA agreements. The only new requirement proposed is that awarding agencies are to apply the rules in part 3019 of this chapter to for-profit entities.

Subpart B—Basic Requirements

Section 3020.10 Authority clause. USDA proposes this section to codify the requirement to include a section in all covered USDA agreements addressing the statutory authority and funding authority for any financial transaction and the statutory authority for any non-financial transaction.

Section 3020.11 Identification and use of USDA agreements. USDA proposes this section to resolve questions as to the primary types of USDA agreements. This section defines the agreements commonly entered into by USDA agencies, subject to each agency's specific authorizations. This section specifically addresses the use of procurement contracts, cooperative agreements, grants, memoranda of understanding, interagency agreements, and intra-agency agreements.

Section 3020.12 Program reporting requirements. The Federal Program Information Act (31 U.S.C. chapter 61) requires Federal agencies to report specified information for programs involving non-procurement transactions. The USDA complies with the requirements through submission of data to the Catalog of Federal Domestic Assistance (CFDA) and the Federal Assistance Award Data System (FAADS). While these are not new requirements and USDA has complied with the reporting requirements since their inception, the requirements were never codified in our regulations. USDA proposes this section to codify these reporting requirements.

Section 3020.13 Acknowledgment of support on publications and audiovisuals. USDA is proposing no substantive changes from § 3015.200. This section states when a recipient shall acknowledge the awarding agency support in publications or audiovisual media.

Section 3020.14 Competing discretionary awards. There is no substantive change from § 3015.158 ''Competition in the awarding of discretionary grants and cooperative agreements.'' This section covers the standards for competition, approval of applications and exceptions.

Section 3020.15 Program regulations and announcements. USDA is proposing no major substantive changes from § 3015.204. Proposed § 3020.15 addresses program announcements, program regulations, program solicitations, evaluation criteria and procedures, funding priorities, projects building on prior awards, and discussions with applicants. Proposed § 3020.15 clarifies and standardizes basic program notice and fairness requirements.

Section 3020.16 Nondiscrimination requirement. USDA proposes to establish a mandatory nondiscrimination statement that is to be included in covered USDA agreements.

Section 3020.17 Waiver of ''single'' State agency requirements. USDA is proposing no substantive changes from current § 3015.30. This section implements section 204 of the Intergovernmental Cooperation Act, which authorizes and establishes criteria for waiver of requirements that a single State agency or multimember agency administer a program.

Subpart C—Management of Agreements

Section 3020.20 Use of consultants. USDA is proposing no major substantive changes from § 3015.201. The Definitions and Applicability subsections have been removed. The Definitions are now covered in § 3020.50 and Applicability is addressed in §§ 3020.20(a) and 3020.20(b)(2). Unlike § 3015.201, applicability of § 3020.20 is not limited to grants, subgrants, and cost-type contracts. All other subsections are virtually the same. The proposed section addresses the basic policy for recipient use of consultants, exceptions, requirements for approval, and documentation standards.

Section 3020.21 Disposition of long term financial interests in real property, personal property, and equipment. This section creates a new departmental policy to terminate any departmental financial interest in property or equipment acquired by a recipient, under a USDA agreement, after 20 years have passed since the last Federal need or use of the property or equipment. Executive Order 12803, ''Infrastructure Privatization,'' directs Federal agencies to ''Approve State and local governments' requests to privatize infrastructure assets, * * * and, where necessary, grant exceptions to the disposition requirements of the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments' common rule'' (57 FR 19063, May 4, 1992). As set out in Executive Order 12803, to privatize an asset means to dispose of, or transfer, an asset from a State or local government to a private party. Examples of infrastructure assets include roads, electrical supply facilities, water supply facilities, recycling plants, waste water treatment facilities, solid waste disposal facilities, housing, schools and hospitals. Executive Order 12803 provides that, ''To the extent permitted by law,'' Federal agencies should revise the existing common rule requirements for the recuperation of Federal financial interests from State or local government grantees when the State or local government grantee privatizes a Federally funded infrastructure asset. The revised method set out in Executive Order 12803, Section 3(c)(iii) calls for use of the Internal Revenue Service accelerated depreciation schedules in calculating the value of the Federal interest in the asset.

Subpart D—Management of Funds

Section 3020.30 Management of indirect costs. In § 3020.30, USDA is proposing to codify the Federal indirect cost policies established in OMB Circulars numbers A–21, Cost Principles for Educational Institutions, and A–87, Cost Principles for State, Local, and Indian Tribal Governments. This section allows for a provisional indirect cost rate to be used pending determination of a final rate. These indirect costs may be paid only after establishing an indirect cost rate as required by §§ 3016.22 and 3019.27 of this chapter and the applicable cost principles or in the case of for-profit entities, the cost accounting standards. This section also explains which agency shall negotiate and establish the rate.

Section 3020.31 Physical segregation and eligibility. USDA proposes in this section to codify the requirement in OMB Circular number A–110, Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations, that awarding agencies shall not require the recipient to use a separate bank account for the deposit of Federal funds or establish any eligibility requirements for banks or other financial institutions in which recipients deposit Federal funds for USDA agreements. Exceptions are found in §§ 3020.32, 3016.21 (h), and 3019.22 (i), (j), and (k) of this chapter.

Section 3020.32 Funds advanced to recipients. USDA proposes no substantive changes from section 3015.12. All moneys advanced to a recipient must be deposited in an FDIC insured bank whenever possible and anything over the FDIC limit must be collaterally secured.

Section 3020.33 Source of bonds. USDA is proposing no substantive changes in this section. Any bonds required under § 3016.36 (h) (1) through (3) or §§ 3019.21 (c) and (d) and 3019.48 (c) (1) through (3) of this chapter shall be obtained from companies holding certificates of authority as acceptable sureties listed by the Department of the Treasury in its Department Circular 570.

Section 3020.34 Limits on total payments to the recipient. USDA proposes in this section to codify the four most widely applicable legal limits on the total amount of money a recipient is entitled to receive from USDA as a result of a Federal award.

Subpart E—Intergovernmental Review of Department of Agriculture Programs and Activities

This subpart implements Executive Order 12372, Intergovernmental Review of Federal Programs, and the applicable provisions of section 401 of the Intergovernmental Cooperation Act of 1968 and section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, and has been completely rewritten in consultation with active State Single Points of Contacts (SPOCs). These consultations were conducted over an extended period of time and the various draft revisions of this section were circulated to all active SPOC States. This was followed by discussions with individual SPOCs and a final review session held at the 1999 National SPOC Network Conference held in Washington, D.C. The proposed language reflects the ideas and comments presented by the SPOCs throughout this consultation process.

Section 3020.40 Purpose. USDA proposes no substantive changes from part 3105.300 ''Purpose.'' This subpart is intended to foster an intergovernmental partnership for the review of proposed Federal financial assistance and direct Federal development.

Section 3020.41 State responsibilities. This proposed section addresses the State option to establish a coordinated review process consisting of a Single Point Of Contact (SPOC) within the State to review proposed Federal awards. The proposed section describes the SPOC's assigned functions.

Section 3020.42 USDA awarding agency responsibilities. This proposed section defines the USDA awarding agency responsibilities to publish certain information in the **Federal Register** and obtain clearance from the OCFO for any **Federal Register** publications regarding implementation of this subpart. The USDA awarding agency must coordinate with the SPOC to maintain a current list of the programs and activities selected by the SPOC for review. The awarding agency is responsible for notifying all State and local governments that would be directly affected by proposed Federal financial awards from, or direct Federal development by, USDA.

Section 3020.43 Office of the Chief Financial Officer responsibilities. This proposed section lists OCFO's responsibilities regarding intergovernmental cooperation and codifies OCFO's responsibility within USDA for the Federal Assistance Awards Data System (FAADS). OCFO will coordinate the resolution of any conflicts between the USDA awarding agency and the SPOC and, to the extent practicable, shall consult with all other substantially affected Federal departments and agencies to ensure full coordination between such agencies and the Department regarding programs and activities covered under this subpart.

Section 3020.44 Processing comments. This proposed section provides guidance to address how USDA agencies will process comments on proposed awards.

Section 3020.45 Accommodation of intergovernmental concerns. This proposed section covers how issues and concerns about an award are handled and the timeframes in which they should be addressed.

Section 3020.46 State plans. This proposed section indicates that Federal programs that statutorily require States to submit plans before receiving awards are subject to the requirements set out in § 3016.11 of this chapter. This section also indicates when plans may be submitted for review, without prior approval.

Section 3020.47 Waivers. This proposed section states that in an emergency, the Secretary of Agriculture may waive any provision of subpart E of this part.

Subpart F—Definitions

Section 3020.50 Definitions and acronyms. This proposed section lists definitions for the terms used throughout part 3020.

CROSS REFERENCE—TRANSITION OF PART 3015—TRANSFERS AND DELETIONS

3015 Section—title	3016, 3019, 3020 Section—title
Subpart A—General	
3015.1 Purpose and scope of this part	3020.1 Purpose. 3020.4 Other regulations applicable to USDA grants.
3015.2 Applicability	3020.2 Applicability.
3015.3 Conflicting policies and deviations	3020.3 Conflicting policies and deviations.
3015.4 Special restrictive terms	3016.12 Special grant or subgrant conditions for ''high-risk'' grantees. 3019.14 Special award conditions.
Subpart B—Cash Depositories	
3015.10 Physical segregation and eligibility	3020.31 Physical segregation and eligibility.
3015.11 Separate bank accounts	3016.21(h)(2) Payment. 3019.22(i)(1) Payment.
3015.12 Moneys advanced to recipients	3020.32 Funds advanced to recipients.
3015.13 Minority and women owned banks	3016.21(h)(1) Payment. 3019.22(j) Payment.
Subpart C—Bonding and Insurance	
3015.15 General	Deleted.
3015.16 Construction and facility improvement	3016.36(h) Procurement. 3019.48(c) Contract provisions.
3015.17 Fidelity bonds	3019.21(d) Standards for financial management systems.
3015.18 Source of bonds	3020.33 Source of bonds.
Subpart D—Record Retention and Access Requirements	
3015.20 Applicability	Deleted.
3015.21 Retention period	3016.42(b) Retention * * * for records. 3019.53(b) Retention * * * for records.
3015.22 Starting date of retention period	3016.42(c) Retention * * * for records. 3019.53(b) Retention * * * for records.
3015.23 Microfilm	3016.42(d) Retention * * * for records. 3019.53(c) Retention * * * for records
3015.24 Access to records	3016.42(e) Retention * * * for records. 3019.53(e) Retention * * * for records.
3015.25 Restrictions to public access	3016.42(f) Retention * * * for records. 3019.53(f) Retention * * * for records.

CROSS REFERENCE—TRANSITION OF PART 3015—TRANSFERS AND DELETIONS—Continued

3015 Section—title	3016, 3019, 3020 Section—title
Subpart E—Waiver of ''Single'' State Agency Requirements	
3015.30 Waiver of ''single'' State agency requirements	3020.17 Waiver of ''single'' State agency requirements.
Subpart F—Grant Related Income	
3015.40 Scope	Deleted.
3015.41 General program income	3016.25(a) Program income. 3019.24 Program income.
3015.42 Proceeds from sale of real property * * * acquired for use	3016.25(f) Program income. 3019.24(g) Program income.
3015.43 Royalties * * * from a copyright	3016.25(e)–(g) Program income. 3019.24(h) Program income.
3015.44 Royalties * * * from inventions	3016.25(e)–(g) Program income. 3019.24(h) Program income.
3015.45 Other program income	3016.25(h) Program income. 3019.24(e) Program income.
3015.46 Interest earned on advances	3016.21(i) Payment. 3019.22(1) Payment.
Subpart G—Cost-Sharing or Matching	
3015.50 Scope	Deleted.
3015.51 Acceptable contributions and costs	3016.24(a) Matching or cost sharing. 3019.23(a) Cost sharing or matching.
3015.52 Qualifications and exceptions	3016.24(b) Matching or cost sharing. 3019.23(a)(2) & (5) Cost sharing or matching.
3015.53 Valuation of donated services	3016.24(c) Matching or cost sharing. 3019.23(d), (e), (h)(5) Cost sharing or matching.
3015.54 Valuation of donated supplies * * * loaned equipment or space.	3016.24(d) Matching or cost sharing. 3019.23(f), (h)(4) Cost sharing or matching.
3015.55 Valuation of donated equipment, buildings, and land	3016.24(e) Matching or cost sharing. 3019.23(g), (h)(1) Cost sharing or matching.
3015.56 Appraisal of real property	3016.24(g) Matching or cost sharing. 3019.23(h)(1) Cost sharing or matching.
Subpart H—Standards for Financial Management Systems	
3015.60 Scope	Deleted.
3015.61 Financial management standards	3016.20 Standards for financial management systems. 3019.21 Standards for financial management systems.
Subpart I—(Reserved)	
Subpart J—Financial Reporting Requirements	
3015.80 Scope and applicability	Deleted.
3015.81 General	3016.41(a) Financial reporting. 3019.52(a) Financial reporting.
3015.82 Financial status report	3016.41(b) Financial reporting. 3019.52(a)(1) Financial reporting.
3015.83 Federal cash transactions report	3016.41(c) Financial reporting. 3019.52(a)(2) Financial reporting.
3015.84 Request for * * * reimbursement	3016.41(d) Financial reporting. 3019.22(d) and (m)(1) Payment.
3015.85 Outlay report * * * construction	3016.41(e) Financial reporting. 3019.22(m)(2) Payment.
Subpart K—Monitoring and Reporting Program Performance	
3015.90 Scope	Deleted.
3015.91 Monitoring by recipients	3016.40(a) Monitoring * * * performance. 3019.51(a) Monitoring * * * performance.
3015.92 Performance reports	3016.40(b) Monitoring * * * performance, 3019.51(b)-(e) Monitoring * * * performance
3015.93 Significant developments	3016.40(d) Monitoring * * * performance, 3019.51(f) Monitoring * * * performance.
3015.94 Site visits	3016.40(e) Monitoring * * * performance. 3019.51(g) Monitoring * * * performance.
3015.95 Waivers, extensions and enforcement actions	3016.40(f) Monitoring * * * performance. 3019.4 Deviations.

CROSS REFERENCE—TRANSITION OF PART 3015—TRANSFERS AND DELETIONS—Continued

3015 Section—title	3016, 3019, 3020 Section—title
Subpart L—Payment Requirements	
3015.100 Scope	Deleted.
3015.101 General	3016.21(b) Payment. 3019.22(a) Payment.
3015.102 Payment methods	3016.21 Payment. 3019.22 Payment.
3015.103 Withholding payments	3016.21(g) Payment. 3019.22(h) Payment.
3015.104 Requesting * * * reimbursements	3016.41(d) & (e) Financial reporting. 3019.22(d) & (m) Payment.
3015.105 Payments to subrecipients	3016.21 Payment. 3019.5 Subawards.
Subpart M—Programmatic Changes and Budget Revisions	
3015.110 Scope and applicability	Deleted.
3015.111 Cost principles	3016.22 Allowable costs. 3016.30(b) Changes. 3019.25(c)(6) Revision of budget & program plans. 3019.27 Allowable costs.
3015.112 Approval procedures	3016.30(a) & (f) Changes. 3019.5 Subawards. 3019.25 Revision of budget & program plans.
3019.13 Programmatic changes	3016.30(d)(1) & (3) Changes. 3019.25(c)(1) & (2) Revision of budget & program plans.
3015.114 Budgets general	3019.25(a) Revision of budget & program plans.
3015.115 Budget revisions	3016.30(c)(1) & (e) Changes. 3019.25(c)(4), (c)(6), (c)(7), (d), & (e) Revision of budget & program plans.
3015.116 Construction and nonconstruction * * * under same agreement.	3016.30(c)(3) Changes. 3019.25(j) Revision of budget & program plans.
Subpart N—Grant and Subgrant Closeout, Suspension and Termination	
3015.120 Closeout.	3016.50 Closeout. 3019.71 Closeout procedures.
3015.121 Amounts payable to the Federal government	3016.52 Collection of amounts due. 3019.73 Collection of amounts due.
3015.122 Violation of terms	3016.43(a) Enforcement. 3019.62(a) Enforcement.
3015.123 Suspension.	3016.43(a)(3) & (c) Enforcement. 3019.62(a)(3) & (c) Enforcement.
3015.124 Termination	3016.43(a)(3) Enforcement. 3016.44 Termination for convenience. 3019.62(a)(3) & (c) Enforcement. 3019.61(a) Termination.
3015.125 Applicability to subgrants	3019.5 Subawards
Subparts O—P (Reserved)	
Subpart Q—Application for Federal Assistance	
3015.150 Scope and applicability	Deleted.
3015.151 Authorized forms	3016.10 Forms for applying for grants. 3019.12 (a) & (b) Forms for applying for Federal assistance.
3015.152 Preapplication for Federal assistance	3016.10 Forms for applying for grants.
3015.153 Notice of preapplication review action	3016.10 Forms for applying for grants.
3015.154 Application * * * non construction	3016.10 Forms for applying for grants.
3015.155 Application for * * * construction	3016.10 Forms for applying for grants.
3015.156 Application * * * short form	3016.10 Forms for applying for grants.
3015.157 Authorized form for nongovernmental organizations	3019.12 Forms for applying for Federal assistance.
3015.158 Competition in the awarding of * * * agreements	3020.14 Competing discretionary awards.
Subpart R—Property	
3015.160 Scope and applicability	Deleted.
3015.161 Additional requirements	Deleted.
3015.162 Title to real *** property supplies	3016.31(a) Real property. 3019.32(a) Real property.
3015.163 Real property	3016.31(b) & (c) Real property. 3019.32 Real property.

CROSS REFERENCE—TRANSITION OF PART 3015—TRANSFERS AND DELETIONS—Continued

3015 Section—title	3016, 3019, 3020 Section—title
3015.164 Statutory * * * exemptions supplies	Deleted.
3015.165 Rights to require transfer of equipment	3016.32(a) & (g) Equipment. 3019.34(g) Equipment.
3015.166 Use of equipment	3016.32(c) Equipment. 3019.34(c) Equipment.
3015.167 Replacement of equipment	3016.32(c)(4) Equipment. 3019.34(e) Equipment.
3015.168 Disposal of equipment	3016.32(e) Equipment. 3019.34(g) Equipment.
3015.169 Equipment * * * requirements	3016.32(d) Equipment. 3019.34(f) Equipment.
3015.170 Damage of * * * of equipment	Deleted.
3015.171 Unused supplies	3016.33(b) Supplies. 3019.35(a) Supplies and other expendable property.
3015.172 Federal share real property, equipment, and supplies	3016.31(c) Real property. 3016.32(e)(2) Equipment. 3016.33(b) Supplies. 3019.32(c)(2) Real property. 3019.34 Equipment. 3020.21 Disposition of long term * * * equipment.
3015.173 Using * * * returning * * * Federal share	3016.31(c) Real property. 3016.32(e) Equipment. 3019.32 Real property. 3019.33 Federally-owned * * * property. 3019.34 Equipment. 3020.21 Disposition of long term * * * equipment.
3015.174 Subrecipient's share	3016.31(c) Real property. 3016.32(e)(2) Equipment. 3016.33(b) Supplies. 3019.5 Subawards. 3019.32 Real property. 3020.21 Disposition of long term * * * equipment.
3015.175 Intangible personal property	3016.34 Copyrights. 3019.36 Intangible property.
Subpart S—Procurement	
3015.180 Scope and applicability	Deleted.
3015.181 Standards of conduct	3016.36(b)(3) Procurement. 3019.42 Codes of conduct.
3015.182 Open and free competition	3016.36(c)(1) Procurement. 3019.43 Competition. 3020.14 Competition in * * * agreements.
3015.183 Access to contractor records	3016.36(i)(10) & (11) Procurement. 3019 Appendix A—Contract provisions.
3015.184 Equal employment opportunity	3016.36(i)(3) Procurement. 3019 Appendix A—Contract provisions. 3020.16 Nondiscrimination requirements.
Subpart T—Cost Principles	
3015.190 Scope	Deleted.
3015.191 Governments	3016.22(b) Allowable costs. 3019.27 Allowable costs.
3015.192 Institutions of higher education	3016.22(b) Allowable costs. 3019.27 Allowable costs.
3015.193 Other non-profit organizations	3016.22(b) Allowable costs. 3019.27 Allowable costs.
3015.194 For-profit organizations	3016.22(b) Allowable costs. 3019.27 Allowable costs.
3015.195 Subgrants and cost-type contracts	3016.22(b) Allowable costs. 3019.5 Subawards. 3019.27 Allowable costs.
3015.196 Costs allowable with approval	3016.22(b) Allowable costs. 3019.27 Allowable costs.
Subpart U—Miscellaneous	
3015.200 Acknowledgment of support on publications and audiovisuals.	3020.13 Acknowledgment of support * * * audiovisuals.
3015.201 Use of consultants	3020.20 Use of consultants.
3015.202 Limits on total payments to the recipients	3020.34 Limits on total payments to the recipient.

CROSS REFERENCE—TRANSITION OF PART 3015—TRANSFERS AND DELETIONS—Continued

3015 Section—title	3016, 3019, 3020 Section—title
3015.203 Reserved	Deleted.
3015.204 Federal Register publications	3020.15 Program regulations and announcements.
3015.205 General provisions for grants and cooperative agreements with institutions of higher education, other non-profit organizations and hospitals.	3019.12 Forms for * * * assistance.
Subpart V—Intergovernmental Review of Department of Agriculture Programs and Activities	
3015.300 Purpose	3020.40 Purpose.
3015.301 Definitions	3020.50 Definitions and acronyms.
3015.302 Applicability	3020.42 USDA awarding agency responsibilities.
3015.303 Secretary's * * * responsibilities	3020.42 USDA awarding agency responsibilities.
3015.304 Federal interagency coordination	3020.43 Office of the Chief Financial Officer responsibilities.
3015.305 State selection of * * * activities	3020.41 State responsibilities.
3015.306 Communication with State and local elected officials	3020.42 USDA awarding agency responsibilities.
3015.307 State comments * * * development	3020.42 USDA awarding agency responsibilities. 3020.44 Processing comments.
3015.308 Processing comments	3020.44 Processing comments.
3015.309 Accommodation of * * * concerns.	3020.45 Accommodation of * * * concerns
3015.310 Interstate situations	3020.42 USDA awarding agency responsibilities.
3015.311 Simplification * * * of State plans	3016.11 State plans. 3020.46 State plans.
3015.312 Waivers	3020.47 Waivers.
Appendix A—Definitions	3016.3 Definitions. 3019.2 Definitions. 3020.50 Definitions and acronyms.
Appendix B—OMB Circular A–128 ''Audits of State and Local Governments''.	Deleted. See 7 CFR part 3052 ''Audits of States, Local Governments, and Non-profit Organizations''.

Regulatory Impact Analysis

Executive Order 12866

Executive Order 12866 requires that a regulatory impact analysis be prepared for ''significant regulatory actions'' which are defined in Executive Order 12866 as any rule that has an annual effect on the national economy of $100 million or more or certain other specified effects.

USDA does not believe that the proposed rule will have an annual impact of $100 million or more or any other effects listed in Executive Order 12866. For this reason, USDA has determined that this proposed rule is not a significant regulatory action within the meaning of Executive Order 12866.

Executive Order 12988

This proposed rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. The provisions of this proposed rule do not preempt State laws, are not retroactive, and do not involve administrative appeals.

Executive Order 13132

It has been determined that this proposed rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this proposed rule will not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various levels of government.

USDA recognizes that the proposed rule has component language that may have some federalism impact. First, the proposed rule removes the existing regulatory language in 7 CFR part 3015 subpart V addressing Intergovernmental Review of Department of Agriculture Programs and Activities, and promulgates revised regulatory language at 7 CFR part 3020. As explained above, USDA consulted extensively with the active State Single Points of Contact throughout the drafting process. These consultations were conducted over an extended period of time and the various draft revisions of this section were circulated to all active SPOC States. This was followed by discussions with individual SPOCs and a final review session held at the 1999 National SPOC Network Conference held in Washington, DC. The proposed language reflects the ideas and comments presented by the SPOCs throughout this consultation process.

Second, the proposed rule also implements Executive Order 12803, ''Infrastructure Privatization,'' in § 3020.21, authorizing exceptions to the disposition requirements for infrastructure assets applicable to State, local, and Indian tribal government recipients under 7 CFR part 3016. This proposed regulation essentially provides that such recipients may request a waiver in accordance with Executive Order 12803. USDA intends to incorporate, and not to alter, the provisions of Executive Order 12803 allowing for such waivers. Implementation of Executive Order 12803 in the departmental regulations codifies the waiver policy, increasing the awareness of State, local, and Indian tribal governments of their ability to request such waivers. USDA considers the proposed rule to have minimal federalism implications, and those minimal implications to be positive because of the added flexibility and awareness of such flexibility in USDA relationships with State, local, and Indian tribal government recipients.

Finally, the rule proposes codification of the applicability of the current regulations at 7 CFR part 3016 to all USDA agreements, as defined in proposed § 3020.2, with State, local, and Indian tribal governments. USDA is not revising the substantive requirements of 7 CFR part 3016. USDA again considers the proposed rule to have minimal federalism implications because State governments are already subject to these requirements for assistance awards.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires that, for each

rule with ''a significant economic impact on a substantial number of small entities,'' an analysis must be prepared describing the rule's impact on small entities and identifying any significant alternatives to the rule that would minimize the economic impact on small entities. USDA certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. chapter 25) requires agencies to prepare several analyses before proposing any rule that may result in annual expenditures of $100 million or more in any one year by State, local, and Indian tribal governments or the private sector. USDA certifies that this proposed rule will not result in expenditures of this magnitude.

Paperwork Reduction Act of 1995

This proposed rule will not impose additional reporting or record keeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35).

List of Subjects

7 CFR Part 3015

Accounting, Grant programs, Intergovernmental relations, Reporting and recordkeeping requirements.

7 CFR Parts 3019 and 3020

Accounting, Colleges and universities, Grant programs, Hospitals, Intergovernmental relations, Nonprofit organizations, Reporting and recordkeeping requirements.

Edward R. McPherson,

Chief Financial Officer.

Ann M. Veneman,

Secretary of Agriculture.

For the reasons stated in the preamble, USDA proposes to amend parts 3015, 3019 and 3020 of 7 CFR chapter XXX as follows:

PART 3015—[REMOVED AND RESERVED]

1. Remove and reserve part 3015.

PART 3019—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, OTHER NONPROFIT, AND FOR-PROFIT ORGANIZATIONS

2. The authority citation for part 3019 is revised to read as follows:

Authority: 5 U.S.C. 301, Pub. L. 101–576, 7 CFR 2.2, 7 CFR 2.28.

3. The heading for part 3019 is revised to read as set forth above.

4. Amend subpart A of 7 CFR part 3019 as follows:

Subpart A—General

a. Revise § 3019.1 to read as follows:

§ 3019.1 Purpose.

This part establishes uniform administrative requirements for Federal grants and agreements awarded to institutions of higher education, hospitals, other non-profit organizations, and for-profit organizations. USDA awarding agencies shall not impose additional or inconsistent requirements, except as provided in §§ 3019.4 and 3019.14 or unless specifically required by Federal statute or executive order. Non-profit and for-profit organizations that implement Federal programs for the States are also subject to State requirements.

b. Revise § 3019.2 (cc) to read as follows:

§ 3019.2 Definitions.

* * * * *

(cc) *Recipient* means an organization receiving financial assistance directly from Federal awarding agencies to carry out a project or program. The term includes public and private institutions of higher education, public and private hospitals, and other quasi-public and private non-profit organizations and for-profit organizations such as, but not limited to, community action agencies, research institutes, educational associations, health centers, commercial organizations, and foreign or international organizations (such as agencies of the United Nations) which are recipients, subrecipients, or contractors or subcontractors of recipients or subrecipients. The term does not include procurement contracts or other agreements, that are otherwise subject to the Federal Acquisition Regulation (FAR) or the Agriculture Acquisition Regulation (AgAR).

* * * * *

c. Revise § 3019.5 to read as follows:

§ 3019.5 Subawards.

Unless sections of this part specifically exclude subrecipients from coverage, the provisions of this part shall be applied to subrecipients performing work under awards if such subrecipients are institutions of higher education, hospitals, other non-profit organizations or for-profit organizations such as, but not limited to, community action agencies, research institutes, educational associations, health centers, commercial organizations, and foreign or international organizations (such as agencies of the United Nations). State and local government subrecipients are subject to the provisions of regulations implementing the common rule, ''Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments,'' codified by USDA at 7 CFR part 3016.

* * * * *

d. Revise § 3019.26(a) to read as follows:

§ 3019.26 Non-Federal audits.

(a) Non-Federal recipients and subrecipients that receive funds from a Federal awarding agency shall be subject to the audit requirements codified at 7 CFR part 3052, ''Audits of States, Local Governments, and Non-Profit Organizations.''

* * * * *

5. Add part 3020 as follows:

PART 3020—GENERAL PROGRAM ADMINISTRATION REGULATIONS

Subpart A—General

Sec.
3020.1 Purpose.
3020.2 Applicability.
3020.3 Conflicting policies and deviations.
3020.4 Other regulations applicable to USDA agreements.

Subpart B—Basic Requirements

3020.10 Authority clause.
3020.11 Identification and use of USDA agreements.
3020.12 Program reporting requirements.
3020.13 Acknowledgment of support on publications and audiovisuals.
3020.14 Competing discretionary awards.
3020.15 Program regulations and announcements.
3020.16 Nondiscrimination requirement.
3020.17 Waiver of ''single'' State agency requirements.

Subpart C—Management of Agreements

3020.20 Use of consultants.
3020.21 Disposition of long-term financial interests in real property, personal property and equipment.

Subpart D—Management of Funds

3020.30 Management of indirect costs.
3020.31 Physical segregation and eligibility.
3020.32 Funds advanced to recipients.
3020.33 Source of bonds.
3020.34 Limits on total payments to the recipient.

Subpart E—Intergovernmental Review of Department of Agriculture Programs and Activities

3020.40 Purpose.
3020.41 State responsibilities.
3020.42 USDA awarding agency responsibilities.

Authority: 5 U.S.C. 301; Pub. L. 101–576, 104 Stat. 2838.

Subpart A—General

§ 3020.1 Purpose.

This part establishes Department wide standards for USDA's administration of Federal programs.

§ 3020.2 Applicability.

(a) *USDA agreements.* Except as provided for in paragraph (c) of this section, this part applies to all USDA agreements.

(b) *USDA agreement recipients.* Except as provided for in paragraph (c) of this section, this part is applicable to all USDA agreement recipients including subrecipients.

(c) *Exceptions.* This part does not apply to:

(1) Procurement contracts or other agreements subject to the Federal Acquisition Regulation (FAR) or the Agriculture Acquisition Regulation (AgAR).

(2) Agreements providing loans or insurance directly to an individual.

(3) Agreements with foreign governments.

(4) Agreements entered into under statutory authorities that explicitly exempt such agreements from chapter 63 of title 31, United States Code.

(5) Cooperative research and development agreements entered into under 15 U.S.C. 3710a.

§ 3020.3 Conflicting policies and deviations.

(a) Except when authorized to act otherwise by statute or by a waiver by the Office of the Chief Financial Officer (OCFO), the provisions in this part apply and take precedence over any individual USDA agency regulations, directives, and policies dealing with the administration of USDA agreements.

(b) Responsibility for developing, interpreting, and updating this part is assigned to the OCFO.

§ 3020.4 Other regulations applicable to USDA agreements.

(a) Related issuances are in other parts of title 7 as follows:

(1) 7 CFR part 3016 ''Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments;''

(2) 7 CFR part 3017 subparts A–E ''Governmentwide Debarment and Suspension (Nonprocurement);''

(3) 7 CFR part 3017 subpart F ''Governmentwide requirements for Drug-Free Workplace (Grants);''

(4) 7 CFR part 3018 ''New Restrictions on Lobbying;''

(5) 7 CFR part 3019 ''Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, Other Nonprofit Organizations, and For-Profit Organizations;''

(6) 7 CFR part 3052 ''Audits of States, Local Governments, and Nonprofit Organizations,''

(b) Entitlement and mandatory awards are included in the scope of part 3016 and part 3019 of this chapter as determined by the type of recipient.

(c) Awarding agencies are to apply the rules in part 3019 of this chapter to for-profit entities.

Subpart B—Basic Requirements

§ 3020.10 Authority clause.

(a) USDA agencies must include in every USDA agreement a clause citing the appropriate statutory and funding authority for the agreement.

(b) USDA agencies shall ensure that only those statutorily authorized Federal resources are used in support of any agreement.

(c) USDA agencies shall establish appropriate internal control systems to ensure that each agreement is administered within the related statutory authority.

§ 3020.11 Identification and use of USDA agreements.

(a) In accordance with 31 U.S.C. Chapter 63, a USDA agency shall use the following criteria in identifying the proper type of instrument to document a procurement or an assistance relationship with a non-Federal party.

(1) *Procurement relationship.* A USDA agency shall use a procurement contract when ''the principal purpose of the relationship is to acquire (by purchase, lease, or barter) property or services for the direct benefit or use of the United States Government.'' The administration of these agreements is subject to the rules set out in the Federal Acquisition Regulation (FAR), 48 CFR Chapter 1, and the Agriculture Acquisition Regulation (AgAR), 48 CFR Chapter 4.

(2) *Federal assistance relationship.*

(i) *Grant agreement.* A USDA agency shall use a grant agreement when ''the principal purpose of the relationship is to transfer a thing of value (money, property, services, etc.) to the recipient to carry out a public purpose of support or stimulation authorized by a law of the United States instead of acquiring (by purchase, lease, or barter) property or services for the direct benefit or use of the United States Government,'' and ''substantial involvement is not expected'' between the USDA agency and the recipient when carrying out the contemplated activity.

(ii) *Cooperative agreement.* A USDA agency shall use a cooperative agreement when ''the principal purpose of the relationship is to transfer a thing of value to the recipient to carry out a public purpose of support or stimulation authorized by law of the United States instead of acquiring (by purchase, lease, or barter) property or services for the direct benefit or use of the United States Government,'' and ''substantial involvement is expected'' between the USDA agency and the recipient when carrying out the contemplated activity.

(b) *Memorandum of Understanding (MOU).* A USDA agency may use an MOU as a planning document to define the nature, terms, and conditions for facilitating and coordinating efforts of mutual interest to the parties involved. An MOU is not an obligating document and may not be used to commit USDA assets or resources in any manner. Other types of agreements may be used in conjunction with an MOU to achieve any needed commitments.

(c) *Interagency and intra-agency agreements.* Agreements between two or more Federal entities which result in the transfer of funds or other resources for the purpose of carrying out a program, initiative, activity or function of the Federal government shall be either an inter- or intra-agency transfer.

(d) *Agreements with institutions of higher education, hospitals, non-profit, and for-profit organizations.* Any USDA agreement, regardless of title but excluding agreements subject to the rules set out in the FAR and the AgAR, between a USDA agency and any institution of higher education, hospital, non-profit, or for-profit organization will be governed by this part and part 3019 of this chapter. This includes USDA agreements with these types of foreign organizations unless specifically excluded or exempted by treaty or statute.

(e) *Agreements with State, local and tribal Governments.* Any USDA agreement, regardless of title except for agreements subject to the rules set out in the FAR and the AgAR, between a USDA agency and any State, local or tribal government will be governed by this part and part 3016 of this chapter.

§ 3020.12 Program reporting requirements.

The following are mandatory reporting requirements for all USDA agreements:

(a) *Catalog of Federal Domestic Assistance (CFDA).* (1) In accordance with the Federal Program Information Act (31 U.S.C. chapter 61), USDA agencies shall submit CFDA information consistent with standards, time lines, and formats established by the General Services Administration (GSA) or any successor central guidance agency for any program that has been determined to be a domestic assistance program as defined in that Act.

(2) Based on the information submitted, the OCFO, in consultation with GSA, shall assign an appropriate permanent or temporary CFDA number.

(3) USDA agencies shall include the CFDA number in any printed or electronic information available to any non-Federal entity, including but not limited to regulatory actions published in the **Federal Register** and program announcements.

(b) *Federal Assistance Award Data System (FAADS).* (1) In accordance with the Federal Program Information Act and section 201 of the Intergovernmental Cooperation Act of 1968 (31 U.S.C. 6502), USDA agencies shall submit FAADS information consistent with standards, time lines, and formats established by the OCFO and the Department of Commerce or any successor central guidance agency for programs involving financial transactions that have been determined to be domestic assistance as defined in the Federal Program Information Act. Non-financial transactions such as dissemination of technical information, advisory services or consulting by Federal employees are not to be reported in FAADS.

(2) Agencies are encouraged to transmit FAADS data on-line. Agencies may also transmit FAADS data using the batch or tape methods of data collection and transmission provided that such methods meet established FAADS standards and are approved in advance by the OCFO.

§ 3020.13 Acknowledgment of support on publications and audiovisuals.

(a) *Publications.* Recipients shall acknowledge USDA awarding agency support, whether cash or in-kind, in any publications written or published with Federal support and, if feasible, on any publication reporting the results of, or describing, a Federally supported activity.

(b) *Audiovisuals.* Recipients shall acknowledge USDA awarding agency support in any audiovisual produced with Federal support that has a direct production cost to the recipient of over $5,000. Unless the terms of the Federal award provide otherwise, this requirement does not apply to:

(1) Audiovisuals produced under mandatory or formula grants or under subawards.

(2) Audiovisuals produced as research instruments or for documenting experimentation or findings and not intended for presentation or distribution to the general public.

(c) *Waivers.* USDA awarding agencies may waive any requirement of § 3020.13. USDA awarding agencies may establish such requirements and procedures for the waiver process as they deem necessary.

§ 3020.14 Competing discretionary awards.

(a) *Standards for competition.* Except as provided in paragraph (c) of this section, USDA awarding agencies shall enter into discretionary assistance agreements only after competition. A USDA agency's competitive award process shall adhere to the following standards:

(1) Potential applicants must be invited to submit proposals through publications and electronic media to achieve the broadest dissemination of project solicitations in order to reach the highest number of potential applicants.

(2)(i) Proposals are to be evaluated objectively by independent reviewers in accordance with written criteria set forth in program solicitations. Independent reviewers may be from the public or private sector as long as they do not include:

(A) Anyone who has approval authority for the applications being reviewed; or

(B) Anyone who appears to have a conflict of interest in reviewing applications.

(ii) The appearance of a conflict of interest arises when the reviewer or the reviewer's immediate family members have been associated with the applicant or applicant organization within the past two to five years, as determined by the agency, as an owner, partner, officer, director, employee, or consultant; has any financial interest in the applicant or applicant organization; or is negotiating for, or has any arrangement, concerning prospective employment with the applicant. If the awarding agency makes a written determination that the pool of qualified individual reviewers is so small that all or almost all qualified reviewers would have the appearance of or an actual conflict of interest, the awarding agency may waive the appearance of conflicts of interest to allow a qualified individual to serve as a reviewer. However, the agency may not allow that individual to review any applications for which an actual conflict of interest exists.

(3) An unsolicited application that is not unique and innovative shall be competed under the USDA program solicitation it comes closest to fitting. USDA officials will determine the solicitation under which the application is to be competed. When the USDA awarding agency official decides that the unsolicited application does not fall under a recent, current, or planned solicitation, a noncompetitive award may be made, if appropriate to do so under the criteria of paragraph (c) of this section. Otherwise, the application should be returned to the applicant.

(b) *Approval of applications.* The final decision to award is at the discretion of the awarding official in each agency. The awarding official shall consider the ranking, comments, and recommendations from the independent reviewers, and any other pertinent information before deciding which applications to fund and their order of funding. Any appeals by applicants regarding the award decision shall be handled by the awarding agency using existing agency appeal procedures or, in the absence of established agency appeal procedures, good administrative practice and sound business judgment.

(c) *Exceptions.* The awarding official may make a written determination that competition is not deemed appropriate for a particular transaction. Such determination shall be limited to transactions for which a noncompetitive award can be adequately justified as being in the best interest of the Government and necessary to accomplish the program goals. Reasons to consider noncompetitive award may include, but are not limited to, the following:

(1) Non-monetary awards of property or services;

(2) Awards of less than $75,000;

(3) Awards to fund continuing work started under a previous award;

(4) Awards relating to a current emergency or substantial danger to health or safety;

(5) Awards for which competition is impracticable; or

(6) Awards to fund unique and innovative unsolicited applications.

§ 3020.15 Program regulations and announcements.

(a) *Publication method.* The **Federal Register** is the preferred, and in certain instances mandatory, method for providing information to the public on

matters related to USDA agreements and programs.

(b) *Program regulations.* Regulations or other documents that establish requirements or procedures binding on the public related to USDA's programs or activities shall be published in the **Federal Register**.

(c) *Program announcements.* For each competition for funds under a program, the awarding agency must publicize the availability of Federal assistance under the program in either the **Federal Register** or through other methods reasonably expected to notify the targeted audience. Program announcements invite applications for one or more stated program objectives. They should include at least the following information:

(1) The CFDA number and title;

(2) An estimate of how much money will be available for awards and the expected size of the awards, broken down by subprogram or priority area when appropriate;

(3) Who is eligible;

(4) How to obtain application kits;

(5) Where to submit applications;

(6) The deadline for submitting applications; and

(7) Whether any or all of the awards are likely to be cooperative agreements rather than grants. In that case, if feasible, the program announcement should also describe the anticipated substantial Federal involvement in performance. (This paragraph does not prevent the award of cooperative agreements under a program announcement that mentioned only grants. Nor does it prevent the award of grants under a program announcement that mentioned only cooperative agreements.)

(d) *Program solicitations.* A program solicitation for competitive assistance awards by the awarding agency shall include or reference the following, as appropriate:

(1) A description of the eligible activities that the awarding agency proposes to support and the program priorities;

(2) Eligible applicants;

(3) The dates and amounts of funds expected to be available for awards;

(4) Evaluation criteria and weights, if appropriate, assigned to each;

(5) Methods for evaluating and ranking applications;

(6) Name and address where proposals should be mailed and submission deadlines(s);

(7) Any required forms and how to obtain them;

(8) Applicable cost principles and administrative requirements;

(9) Type of funding instrument intended to be used (grant or cooperative agreement); and

(10) The CFDA number and title.

(e) Evaluation criteria and procedures. The awarding agency may elect to publish its criteria and procedures for evaluating applications for competitive awards either in the program regulations or the program announcement in addition to the program solicitation. If the criteria are not all equal in importance, their relative weights should also be published. Failure to identify any relative weights creates a presumption that all criteria are weighted equally. The criteria should cover at least the following factors (except where the nature of the eligible projects makes one or more of these factors irrelevant):

(1) The qualifications of proposed project personnel;

(2) The adequacy of the applicant's facilities and resources;

(3) The adequacy of the project plan or methodology;

(4) The cost-effectiveness of the project; and

(5) How closely the project objectives fit the objectives for which applications were invited.

(f) Funding priorities. If the awarding agency intends to give priority to one or more particular kinds of projects, the priority (and how it will be applied in deciding which applications to fund) should be described in the program announcement.

(g) Projects building on prior awards. If the awarding agency intends to give a preference to applications proposing to further previously funded projects over applications for projects not previously receiving support under the program, or vice versa, the preference should be described in the program announcement.

(h) Programs with specific identifiable potential applicants. For programs with limited eligibility for which all potential applicants can be specifically and accurately identified (for example, State Governments), the awarding agency may elect to create a complete list of potential applicants and to send a copy of the program announcement or program solicitation directly to every potential applicant instead of publishing it in the **Federal Register**, provided that the awarding agency establishes an adequate internal control system to ensure that:

(1) Prior to each use of the list, the list is verified for completeness and accuracy; and

(2) Use of the list does not violate the intent of § 3020.14(a)(1).

(i) Additional information to be made available. In addition to the items specified in paragraphs (b) through (g) of this section, each awarding agency shall make available to the public the following information and materials for each program:

(1) A copy of, or reference to, the authorizing statutes for the program; and

(2) All guidelines generally applicable to administration of the program.

(j) Discussions with applicants. Each awarding agency should publish as much information as practicable to reduce the need for individual discussions with potential applicants. If the awarding agency does engage in consultations or discussions with any potential applicants, the agency shall give consistent interpretations and fair treatment to all potential applicants. The agency shall ensure that any discussions do not knowingly prejudice any applicant or undermine the competitive process of the program.

§ 3020.16 Nondiscrimination requirement.

It shall be a condition of every USDA agreement that the recipient assures compliance with the following statement:

> No person in the United States shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to prohibited discrimination in programs and activities funded in whole or part by USDA based on race, color, national origin, age, disability, and, where applicable, sex, religion or political beliefs.

§ 3020.17 Waiver of ''single'' State agency requirements.

(a) *Waiver authority.* In the event that Federal law requires that a single State agency or multi member board or commission be established to administer or supervise the administration of a program, then section 204 of the Intergovernmental Cooperation Act of 1968 (31 U.S.C. 6504) authorizes the Federal awarding agency to waive the ''single'' State agency requirements upon request of the Governor or other authorized State authorities.

(b) Approval authority. The USDA awarding agency has approval authority for waiver requests, and shall handle them as quickly as feasible. Approval should be given whenever possible under the statutory criteria.

(c) Refusal procedures. When it is necessary to refuse a request for the waiver of the ''single'' State agency requirements, the USDA awarding agency shall, through the OCFO, advise the Office of Management and Budget (OMB) that the request cannot be granted. Such advice should indicate

the reasons for the denial of the request. The notification to OMB shall occur prior to informing the State of the refusal.

Subpart C—Management of Agreements

§ 3020.20 Use of consultants.

(a) *Basic policy*—(1) *Prior approval.* Awarding agencies shall not require prior approval for the use of consultants, except as noted in paragraphs (a)(2) and (b) of this section.

(2) *Exceptions.* (i) In unusual cases, using a consultant may constitute a transfer of substantive programmatic work, which requires prior approval under discretionary Federal awards.

(ii) Consulting fees paid by an organization to its own employees require prior approval.

(b) *Use of an organization's own employees*—(1) *Faculty members of educational institutions.* Charges representing extra compensation (above base salary) paid by an educational institution to a salaried member of its faculty for consulting work are allowable only in unusual cases, and only if both of the following conditions exist:

(i) The consultation is across departmental lines or involves a separate or remote operation; and

(ii) The work performed by the consultant is in addition to his or her regular departmental load.

(2) *All other cases.* In all other cases, consulting fees paid in addition to salary by recipients to people who are also their employees may be supported by a Federal award or subaward only in unusual cases, and only if all of the following three conditions exist:

(i) The policies of the recipient permit such consulting fee payments to its own employees regardless of whether Federal funds are involved;

(ii) The work involved is clearly outside the scope of the person's salaried employment; and

(iii) It would be inappropriate or not feasible to compensate for the additional work by paying additional salary to the employee.

(3) *Requirement for approval.* Consulting fees paid under paragraphs (a)(2) and (b)(1) and (2) of this section must have a specific prior approval in writing from the Head of the recipient organization or from his or her designated representative. If the recipient is a government, the approval may be given by the Head (or a designated representative of the Head) of the government agency that is primarily responsible for administering or carrying out the project or program. If the designated representative is personally involved in the project or program under consideration, only the Head may give the approval. If the Head is personally involved in the project or program under consideration, prior approval from the awarding agency is required. Such prior approval must include a determination that the applicable requirements in paragraph (b) (1) or (2) of this section are present.

(c) *Documentation standards.* (1) Charges for consulting payments must be supported in the records of the recipient by an invoice from the consultant and a copy of the written report (if a report is appropriate) or other documented evidence of the work performed from the consultant.

(2) If any of the following information is not shown on the invoice or report from the consultant, the information must be shown in a memorandum or other document prepared by the recipient for its files, or noted in handwriting on the consultant's invoice by the recipient. The memorandum, other document, or handwritten notation must be signed by an official of the recipient and show:

(i) The name of the consultant;

(ii) The nature of the services provided (such as statistical analysis of data, participation on project advisory committee, or specified medical services to eligible beneficiaries);

(iii) The relevance of the services to the project or program, if not apparent from the nature of the services; and

(iv) Whichever of the following is applicable:

(A) If the fee was based on a rate per day or hours worked, the rate and the dates or hours worked;

(B) If the fee was based on a rate per unit of service provided, such as the number of patients examined by a physician, the rate, the number of units of service provided, and the beginning and ending dates of the overall period of service; or

(C) If the fee was determined on some other basis, the basis for determining the fee and the beginning and ending dates of the period in which services were provided.

§ 3020.21 Disposition of long term financial interests in real property, personal property, and equipment.

(a) When a USDA agency acquires a financial interest in real property in accordance with the rules set out in part 3016 or part 3019 of this chapter, and the originally authorized purpose for the property has been met, agencies shall follow the appropriate rules set out in part 3016 or part 3019 of this chapter for the disposal of such real property except:

(1) When the recipient is a State or local government requesting authority to dispose of the property by sale to a domestic, non-governmental entity in accordance with Executive Order 12803 ''Infrastructure Privatization,'' then the USDA awarding agency shall follow the method set out in Executive Order12803 provided that the real property portion of the transaction is not depreciated in any manner.

(2) When the recipient has not requested disposal instructions and 20 years have passed since the last Federal need or use of the real property, then any Federal financial interest in the property shall be deemed to have ended.

(b) When a USDA agency acquires a financial interest in personal property or equipment in accordance with the rules set out in part 3016 or part 3019 of this chapter, and the originally authorized purpose for the property or equipment has been met, the agency shall follow the appropriate rules set out in part 3016 or part 3019 of this chapter for the disposal of such property or equipment except:

(1) When the recipient has not requested disposal instructions and 20 years have passed since the last Federal need or use of the property or equipment, then any Federal financial interest in the property or equipment shall be deemed to have ended.

(2) [Reserved]

Subpart D—Management of Funds

§ 3020.30 Management of indirect costs.

(a) Indirect costs may be paid only subsequent to the establishment of an indirect cost rate as required by §§ 3016.22 and 3019.27 of this chapter and the applicable cost principles or in the case of for-profit entities, the cost accounting standards. A provisional rate may be used pending the establishment of a final rate. In the absence of either a final or provisional indirect cost rate, awarding agencies are not authorized to advance or reimburse payments to entities for these costs.

(b) An awarding agency should pay the established indirect cost rate. Only where statutory authority exists, an awarding agency may pay an increase in the established direct cost rate. An awarding agency may pay a lesser amount than the established indirect cost rate if required by statute or if the recipient waives some or all of its indirect costs.

(c)(1) Recipients requesting payment of indirect costs may request the establishment of a negotiated indirect

cost rate. Such requests should be made to:

(i) The Federal department designated by the OMB to be the lead agency;

(ii) The Federal department providing the most Federal money in the current fiscal year; or

(iii) The Federal department with which the entity has had the longest standing relationship.

(2) When USDA is the Federal department responsible for negotiating the indirect cost rate, the request shall be made to the OCFO. The OCFO will determine which of the USDA agencies shall conduct the negotiation. Only those USDA agencies that have been delegated negotiation authority by the OCFO may conduct indirect cost rate negotiations.

§ 3020.31 Physical segregation and eligibility.

(a) Except as provided in §§ 3020.32, 3016.21 (h), and 3019.22 (i),(j), and (k) of this chapter, awarding agencies shall not impose conditions which:

(1) Require the recipient to use a separate bank account for the deposit of Federal funds; or

(2) Establish any eligibility requirements for banks or other financial institutions in which recipients deposit Federal funds for USDA agreements.

(b) [Reserved]

§ 3020.32 Funds advanced to recipients.

Any moneys advanced to recipients that remain subject to the control or regulation of the United States or any of its officers, agents, or employees (public moneys as defined in 31 CFR 202.1), must be deposited in a bank with FDIC insurance coverage whenever possible, and the balance exceeding the FDIC coverage must be collaterally secured.

§ 3020.33 Source of bonds.

Any bonds required under § 3016.36 (h)(1) through (3) or §§ 3019.21 (c) and (d) and 3019.48 (c)(1) through (3) of this chapter shall be obtained from companies holding certificates of authority as acceptable sureties listed by the Department of the Treasury in its Department Circular 570.

§ 3020.34 Limits on total payments to the recipient.

(a) This section summarizes the four most widely applicable limits on the total amount of money the recipient is entitled to receive from USDA as a result of a Federal award. It is permissible for the terms of a USDA agreement to provide one or more additional limits.

(b) For each Federal award, the lowest of the applicable limits is the one that governs the final settlement upon expiration or termination of the award.

(c) The following two limits apply to every Federal award:

(1) The amount of Federal funds authorized; and

(2) The Federal share of the allowable costs incurred by the recipient.

(d) Federal awards that require a specified percentage of cost sharing or matching are subject to the applicable limits described in §§ 3016.24 and 3019.23 of this chapter.

(e) For each budget period of an incrementally funded discretionary Federal award, the limit is the Federal share of the allowable costs for that period's approved budget.

Subpart E—Intergovernmental Review of Department of Agriculture Programs and Activities

§ 3020.40 Purpose.

(a) This subpart establishes regulations implementing Executive Order 12372, ''Intergovernmental Review of Federal Programs'' and the applicable provisions of section 401 of the Intergovernmental Cooperation Act of 1968 (31 U.S.C. 6506) and section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3334).

(b) This subpart is intended to foster an intergovernmental partnership for review of proposed Federal financial assistance and direct Federal development.

§ 3020.41 State responsibilities.

(a) A State may elect to establish a coordinated review process within the State to review proposed Federal awards. The State review process shall consist of a Single Point Of Contact (SPOC) with the assigned functions of:

(1) Selecting any of the programs or activities published in the **Federal Register** in accordance with § 3020.42 (a) for intergovernmental review. Each SPOC, before selecting programs and activities, should consult with local elected officials;

(2) Notifying the USDA awarding agency of the Department's programs and activities selected for the State review process. A State may notify the USDA awarding agency of changes in its selections anytime;

(3) Reviewing proposed Federal awards forwarded to the SPOC by the USDA awarding agency;

(4) Distributing for comment the proposed award to all interested or affected local governments or other interested parties within the State, and compiling and analyzing any comments received;

(5) Providing the USDA awarding agency with a consolidated State recommendation for or against the proposed Federal award;

(6) Providing the USDA awarding agency with the State Agency Identification (SAI) number on each SPOC recommendation, if the SPOC process includes a State tracking system that assigns SAI numbers.

(b) If a State elects not to establish a SPOC in accordance with paragraph (a) of this section or the SPOC does not select a particular program or activity, the State, area wide, regional and local officials and entities may submit comments in accordance with § 3020.42 (b)(2).

§ 3020.42 USDA awarding agency responsibilities.

(a) The USDA awarding agency is required to publish in the **Federal Register** a list of the agency's programs and activities that are subject to this subpart and identify which of these are also subject to the requirements of section 204 of the Demonstration Cities and Metropolitan Development Act (42 U.S.C. 3334).

(1) The USDA awarding agency shall obtain clearance from the OCFO for any **Federal Register** publications regarding implementation of this subpart.

(2) In coordination with the SPOC, each USDA awarding agency shall maintain a current list of the programs and activities selected by the SPOC for review in accordance with§ 3020.41 (a) (2).

(b) The USDA awarding agency is responsible for notifying all State and local governments that would be directly affected by proposed Federal financial awards from, or direct Federal development by, USDA:

(1) When a State has established a process under § 3020.41 (a), the USDA awarding agency shall exclusively use that process adopted by the State to review and coordinate proposed awards and shall allow a minimum of 60 days for the SPOC to comment on proposed awards. The USDA awarding agency shall allow for a comment period of less than 60 days only with the formal concurrence of the SPOC.

(2) When a State has not established a process or a program or activity has not been selected by the SPOC for review, the USDA awarding agency shall notify each of the affected State and local government officials directly and shall allow a minimum of 30 days for comments on proposed awards.

(c) The USDA awarding agency shall establish a system for accepting and evaluating comments when received

from the SPOC or individual entities and shall maintain appropriate records.

(1) The USDA awarding agency should make every effort to coordinate the process adopted by States at the Federal organizational level geographically closest to the State and local government affected.

(2) The USDA awarding agency shall establish a system to ensure that the SPOC assigned SAI number is entered into the FAADS database in an accurate and timely manner.

(3) The USDA awarding agency shall make every effort to resolve State and local elected officials' concerns with proposed awards.

§ 3020.43 Office of the Chief Financial Officer responsibilities.

(a) OCFO approval is a required prerequisite for any **Federal Register** publication listing USDA programs and activities that are subject to these regulations and subject to the requirements of section 204 of the Demonstration Cities and Metropolitan Development Act (42 U.S.C. 3334).

(b) The OCFO will coordinate the resolution of any conflicts between the USDA awarding agency and the SPOC in accordance with § 3020.45 (b).

(c) The OCFO ensures that the USDA central database, FAADS, supports the requirements of this system, including accurate SAI numbers.

(d) The OCFO, to the extent practicable, shall consult with and seek advice from all other substantially affected Federal departments and agencies in an effort to ensure full coordination between such agencies and the Department regarding programs and activities covered under this subpart.

§ 3020.44 Processing comments.

(a) *Application.* The USDA awarding agency shall provide a copy of the award application to all affected entities either through the SPOC in States where a process has been established or to each entity directly in non-SPOC States.

(b) *Comments.* All comments on proposed awards shall be sent to the USDA awarding agency and processed in accordance with this section before the USDA awarding agency makes a final decision on the award.

(1) Comments shall be sent to the USDA awarding agency in the 30 or 60 days time period as required in § 3020.42 (b)(1) or (2). If this time expires or if all relevant substantive comments are favorable, the USDA awarding agency may move to a final decision on the application provided only that the action be documented in the award file.

(2) [Reserved]

(c) *Opposition comments.* If comments are in opposition to the proposed award or request a substantive change to the award, the USDA awarding agency shall make every effort to resolve the differences.

(1) In non-SPOC States, the USDA awarding agency shall notify each commenter of agency's final decision. Other than documenting this action in the award file, no further action is required on the part of the USDA awarding agency.

(2) In SPOC States, if the USDA awarding agency and the SPOC resolve their differences then the USDA awarding agency may move to a final decision on the application provided only that the action be documented in the award file.

(3) If the SPOC issues are not resolved then the process set out in § 3020.45 shall be followed.

§ 3020.45 Accommodation of intergovernmental concerns.

(a) When any issues raised by the SPOC in opposition to the award are not resolved informally as set out in § 3020.44, the USDA awarding agency shall provide the SPOC with a written explanation of the agency's reasons for not accepting the SPOC recommendations. The USDA awarding agency may supplement the written explanation by also providing the explanation to the SPOC by telephone, other telecommunication, or other means. In any explanation the USDA awarding agency shall inform the SPOC that:

(1) The SPOC has 10 days to respond to the agency's position. For purposes of computing the waiting period, a SPOC is presumed to have received written notification five days after the date of mailing of such notification;

(2) The USDA awarding agency will not implement its decision during this period.

(3) If the SPOC response is favorable or if no response is received from the SPOC within the time set out in paragraph (a) (1) of this section, the USDA awarding agency may proceed to a final decision on the award with appropriate documentation to the file.

(b) When the SPOC does not accept the USDA awarding agency's explanation, the SPOC may file an appeal to the Department by sending written notification, including background information, to both the agency and the OCFO within the time frame set out in paragraph (a) (1) of this section.

(1) The OCFO will notify the appropriate Under or Assistant Secretary and the Head of the USDA awarding agency and prepare the disputed issue for presentation to the Secretary of Agriculture for final decision.

(2) At any point prior to the Secretary of Agriculture's decision, the parties to the dispute may resolve the issues and immediately notify the OCFO. The OCFO will withdraw the request for a Secretarial decision and notify the USDA awarding agency to proceed to final decision on the award.

§ 3020.46 State plans.

The statutes authorizing some Federal programs require States to submit plans before receiving awards.

(a) Such plans are subject to the requirements set out in § 3016.11 of this chapter.

(b) If not inconsistent with law, a State may elect to submit for review, without prior approval, a plan that:

(1) Consists of a State developed format, planning period, and submission date;

(2) Consolidates two or more plans; or

(3) Was developed for the State's own purposes.

(c) The USDA awarding agency shall reject such plans only when they fail to meet those Federal administrative or programmatic requirements that are in statutes or codified regulations.

§ 3020.47 Waivers.

In an emergency, the Secretary of Agriculture may waive any provision of this subpart E.

Subpart F—Definitions

§ 3020.50 Definitions and acronyms.

Approved budget means a budget (including any revised budget) that has been approved in writing by the awarding agency. (See the definition of ''budget'').

Audiovisual means a product containing visual imagery or sound or both. Examples of audiovisuals are motion pictures, live or prerecorded radio or television programs, slide shows, filmstrips, audio recordings, and multimedia presentations. The term does not include the placing of captions for the hearing impaired on films or videotapes not originally produced for use by the hearing impaired.

Awarding agency means:

(1) The USDA agency, such as the Forest Service, making the award, and

(2) For subawards, the recipient.

Budget means the recipient's financial expenditure plan approved by the awarding agency to carry out the purposes of the Federally supported project. The budget is comprised of both the Federal share and any non-Federal

share of such plan and any subsequent authorized rebudgeting of funds. For those programs that do not involve Federal approval of the non-Federal share of costs the term *budget* means the financial expenditure plan approved by the awarding agency including any subsequent authorized rebudgeting of funds, for the use of Federal funds only. Any expenditure charged to an approved budget consisting of Federal and non-Federal shares is deemed to be supported by the agreement in the same proportion as the percentage of Federal/non-Federal participation in the overall budget.

Budget period means the period specified in the agreement during which Federal funds awarded are authorized to be expended, obligated, or firmly committed by the recipient for the purposes specified in the agreement.

CFR means the Code of Federal Regulations.

Consultant means a person who gives advice or services for a fee, but not as an employee. The term includes guest speakers when not acting as employees of the party that engages them. Note that in unusual cases it is possible for a person to be both an employee and a consultant at the same time. (*See* § 3020.20.)

Cost-sharing and *matching* each mean that portion of the allowable costs not supported by the Federal Government including the value of any third party in-kind contributions. (The terms *cost-sharing* and *matching,* in this part, are synonymous.)

Department means the U. S. Department of Agriculture

Discretionary Federal agreements are ones which a Federal statute authorizes but does not require USDA to award.

FDIC means the Federal Deposit Insurance Corporation.

Federal funds authorized means the total amount of Federal funds obligated by the Federal Government for use by the recipient. This amount is a limit on the total amount of money that the recipient is entitled to receive from the Federal Government as a result of the award.

GSA means the General Services Administration.

Local government means a local unit of government including specifically, a county, municipality, city, town, township, local public authority, school district, special district, intrastate district, council of governments (whether or not incorporated as a nonprofit corporation under State law), sponsor or sponsoring local organization of a watershed project (as defined in 7 CFR 622.10), any other regional or interstate government entity, or any agency or instrumentality of a local government.

Mandatory or *formula* Federal agreements are ones which a Federal statute requires USDA to award if the applicant meets specified conditions.

Obligations mean the amounts of orders placed, contracts and subgrants awarded, services received, and similar transactions during a given period, which will require payment during the same or future period.

OCFO means the Office of the Chief Financial Officer, which is an organizational component in USDA reporting to the Secretary of Agriculture, or any successor organizational unit.

OMB means the Office of Management and Budget in the Executive Office of the President.

Publication means a book, periodical, pamphlet, brochure, flier, or similar item, whether published by paper or electronic means.

Recipient means a State or local government, Federally recognized Indian Tribe, institution of higher education, non-profit organization, for profit organization, or other non-Federal organization such as, but not limited to, community action agencies, research institutes, educational associations, health centers, commercial organizations, foreign or international organizations (such as agencies of the United Nations) that are a party to or a subrecipient, or contractor or subcontractor of a party to or subrecipient of a USDA agreement.

State means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, the Republic of Palau, the Federated States of Micronesia, the Republic of the Marshall Islands, or any agency or instrumentality of a State. The term does not include local governments.

Subaward means: (1) An award of money or property that:

(i) Is made under a USDA agreement by the recipient; and

(ii) Is made principally to accomplish a purpose of support or stimulation rather than to establish a buyer-seller relationship between the two parties.

(2) Any award by a recipient that meets that definition is a subaward even if the parties to the award use some other label such as grant, agreement, cooperative agreement, contract, allotment, or delegation agreement. Also, if the award meets that definition, it is a subaward whether or not the awarding agency is expected to be substantially involved in its performance. However, the term subaward does not include any type of relationship under an agreement excluded from the scope of USDA agreements in § 3020.2;

Termination of an award means permanent withdrawal or voluntary relinquishment of the recipient's authority to obligate previously awarded funds before that authority would otherwise expire. Termination does not include:

(1) Withdrawal of the unobligated balance upon expiration of award;

(2) Refusal by the awarding agency to extend an award or to award additional funds (such as refusal to make a competitive or noncompetitive continuation, renewal, extension, or supplemental award);

(3) Annulment, *i.e.*, voiding of an award upon determination that the award was obtained fraudulently or was otherwise illegal or invalid from inception;

(4) Withdrawal of surplus Federal funds under a discretionary award or any analogous withdrawal of funds by a recipient from a subrecipient; or

(5) Withdrawal under a mandatory or formula USDA award of surplus Federal funds authorized which the recipient will not obligate during the fiscal year, or any analogous withdrawal of funds by a recipient from a subrecipient.

Terms mean all rights and duties created by the award, whether by statute, regulation, the award document or any other document.

Third party means, with respect to a USDA agreement, any entity except:

(1) The Federal government,

(2) The recipient of the agreement, and

(3) Subrecipients under that agreement.

Third party in-kind contributions mean property or services benefiting the USDA assisted project or program that are contributed by third parties without charge.

Unobligated balance means the portion of Federal funds authorized that has not been obligated by the recipient. It is calculated by subtracting the Federal share of the recipient's cumulative obligations from the cumulative Federal funds authorized.

USDA Agency means any USDA agency, office or comparable organizational unit established by statute, by the President of the United States, or by the Secretary of Agriculture.

[FR Doc. 03–17777 Filed 7–15–03; 8:45 am]

BILLING CODE 3410–90–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket Nos. PRM–50–73 and PRM–50–73A]

Mr. Robert H. Leyse; Denial of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Denial of petition for rulemaking.

SUMMARY: The Nuclear Regulatory Commission (NRC) is denying two related petitions for rulemaking submitted by Mr. Robert H. Leyse (PRM–50–73 and PRM–50–73A). The petitioner requested that the NRC revise its regulations to address the effect of crud on the cooling of the reactor core under the turbulent coolant flow conditions of a loss-of-coolant-accident (LOCA), and during normal operations. Crud is a colloquial term for corrosion and wear products (rust particles, etc.) that become radioactive (*i.e.*, activated) when exposed to neutron irradiation. The petitioner states that crud buildup during normal operations and its detachment and resuspension during a LOCA could obstruct flow of coolant, resulting in inadequate cooling and ultimately leading to melting of the nuclear fuel. In addition, the petitioner requested that the NRC amend its regulations to include comparisons to applicable experimental data that address the impact of crud deposits on the ability to cool fuel rods.

ADDRESSES: Copies of the petitions for rulemaking, the public comments received, and the NRC's letter of denial to the petitioner may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike, Public File Area 01 F21, Rockville, Maryland. These documents are also available electronically at the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html.* From this site, the public can gain entry into the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. For further information contact the PDR reference staff at 1–800–387–4209, (301) 415–4737 or by e-mail to *pdr@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Alan K. Roecklein, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–3883, e-mail *akr@nrc.gov.*

SUPPLEMENTARY INFORMATION:

Background

Section 50.46 specifies the performance criteria against which the emergency core cooling system (ECCS) must be evaluated. Appendix K to part 50 provides the required and acceptable features of ECCS evaluation models. The criteria are: (1) Peak cladding temperature that cannot be exceeded, (2) the maximum cladding oxidation thickness, (3) the maximum total hydrogen generation, (4) assurance of a core geometry that can be cooled, and (5) assurance of abundant long term cooling. The regulations also state that assessments of cooling performance following postulated LOCAs must be calculated in accordance with an acceptable evaluation model and that in applying the model, comparisons to applicable experimental data must be made.

The petitioner identified numerous elements of the specified ECCS evaluation procedures and the evaluation model that he believed need to include additional comparisons to applicable experimental data.

The Petitions

The petition for rulemaking designated PRM–50–73 addressing potential crud interference with coolant flow during a fast-moving (large-break) LOCA, was sent to the NRC September 4, 2001, and the notice of receipt of the petition and request for public comment was published in the **Federal Register** (FR) on October 12, 2001 (66 FR 52065). The public comment period ended on December 26, 2001. On November 5, 2001, the supplemental petition, designated PRM–50–73A, was sent by the same petitioner alleging crud interference with coolant flow during normal operations. The notice of receipt of the second petition was published on January 29, 2002 (67 FR 4214). The public comment period ended on April 15, 2002. Five letters of public comment were received on PRM–50–73 and seven letters were received on PRM–50–73A. The NRC staff determined that the two petitions should be addressed as one action.

PRM–50–73

The petitioner stated that § 50.46 and Appendix K to part 50 do not address the impact of crud on core cooling during a fast-moving (large-break) LOCA. The petitioner noted that a licensed power reactor had operated with heavy crud deposits on many of the fuel rods. The petitioner stated that had a fast-moving (large-break) LOCA occurred before shutdown for refueling, extensive blockage of flow channels within the fuel bundles would have developed, leading to a degradation of core cooling and compromising defense-in-depth. The petitioner further stated that significant crud deposits could lead to an extensive fuel failure during full-power operation and that the amount of failed fuel would then lead to a decision to shut down the reactor as the inventory of radioactive material in the reactor coolant reached the limits allowed by the technical specifications.

PRM–50–73A

The petitioner stated that § 50.46 and Appendix K to part 50 do not address the impact of severe crud deposits on fuel bundle cooling during normal power operations. The petitioner stated that a licensed power reactor had operated with unusually heavy crud deposits which, had they been allowed to build, would likely have blocked flow channels, interfered with core cooling and led to significant damage to structural components of the core. The petitioner requested that § 50.46 and Appendix K be revised to include consideration of the impact of crud deposits on fuel bundles during normal operations.

Public Comments on the Petitions

PRM–50–73

The five letters of public comment received were opposed to this petition. Framatome ANP, a nuclear vendor, did not agree that crud would collect within the core as the petitioner suggested, nor that it would pose blockage problems. Framatome discussed the effects of crud for the sections of the regulations addressed by the petition, and stated that for each section, the effects of crud are adequately addressed. In Framatome's experience, typical crud formed on the surface of fuel cladding does not have the consistency to create coolant flow blockage during either normal operation or blowdown (*i.e.*, a LOCA). Framatome ANP stated that thermal transients in the cladding and movement resulting from strain might promote crud breakoff from the cladding but would produce small pieces that would be further broken down by the turbulence and velocity of the blowdown flow rates.

Exelon Nuclear, a power reactor licensee, stated that the petitioner's requested action was not necessary because 10 CFR 50.46 already requires that the cooling performance of the ECCS following postulated LOCAs meet certain acceptance criteria. Exelon stated that NRC regulatory guidance and approved ECCS evaluation models

already address crud and other phenomena that could potentially impact performance relative to the acceptance criteria. Furthermore, Exelon Nuclear stated that it and its predecessors have over 30 years of experience in monitoring fuel performance in numerous nuclear power plants (NPPs) and that they have identified only one cycle, in one unit, with crud induced failures. Exelon further stated that corrective actions taken after those observed failures have resulted in no further failures due to crud at this or any other Exelon unit. In Exelon's experience, crud is powdery, and its characteristics, in terms of size or strength, indicate that it would not block the coolant flow channels and lead to fuel failures.

In general, Exelon asserted, industry experience related to significant crud deposits has been that they are isolated cases, and that after extensive root cause evaluations, effective corrective actions have prevented recurrence. Exelon also stated that crud deposits are effectively controlled through the use of the Electric Power Research Institute (EPRI) Chemistry Guidelines.

Westinghouse Electric Company, LLC, a nuclear vendor, opposed the petition based on its extensive poolside and laboratory examinations of crud deposits on fuel rods used in pressurized-water reactors (PWRs), including cases in which abnormally high levels of crud could be detected during normal operation. Its results showed that it would be virtually impossible for any significant amount of the crud to contribute to flow blockage in the event of a large-break LOCA. Westinghouse also stated that most of any crud released would become suspended particles that would not affect core coolant flow. In one cited case, a water chemistry change resulted in a sudden release of all the accumulated crud in the core. A very small change in reactor coolant flow was observed as a result of this release.

GE Nuclear Energy, a nuclear vendor, opposed the proposed change on the basis that the event described in the petition was a unique event, not typical of crud buildup in boiling water reactors (BWRs). Even with that unusual buildup the core remained in a configuration that could be cooled throughout the cycle and would have remained in a configuration that could be cooled in the event of a LOCA. GE also stated that the safety evaluation concerning this event showed that, even with crud deposition, there would be substantial margin to the 2200° F peak cladding temperature acceptance criterion specified by 10 CFR 50.46.

The Nuclear Energy Institute (NEI), an industry group representing all U.S. commercial nuclear power plants, plant designers, architect/engineering firms, and fuel cycle facilities, opposed the petition. NEI stated that existing NRC regulations establish performance criteria for maintaining core cooling and specify realistic ECCS evaluation models that address potential impacts on these performance measures. NEI stated that numerous thermal-hydraulic phenomena are addressed in the technical evaluation models. However, the regulations are not overly prescriptive in terms of phenomena to be addressed, which allows for advances in the technical database and updating of the evaluation procedures without the need for rulemaking. Fuel performance and other performance measures are monitored routinely to ensure that core evaluation models accurately reflect real conditions.

NEI stated that considerable data has been accumulated on crud deposits and their impact on coolant flow properties. The data do not support the postulated existence of characteristics that might lead to a substantial blockage of flow. NEI believes that the provisions of 10 CFR 50.46 and Appendix K provide an adequate mechanism for ensuring that coolant flow and fuel performance are thoroughly monitored and maintained.

PRM 50–73A

Of the seven letters of public comment received in response to PRM–50–73A, two were submitted by the petitioner, and provided additional information and related technical support for his assertions in PRM–50–73 and PRM–50–73A. The other five letters opposed the request for rulemaking contained in PRM–50–73A.

NEI noted that it had commented on the initial PRM–50–73 and provided a copy of the initial NEI comment letter. With respect to the changes to the regulations for normal operating conditions requested in this supplemental petition, NEI stated that the changes are not needed. In NEI's view the NRC Standard Review Plan (SRP) specifies a comprehensive set of acceptance criteria that specifically address the impact of fuel crud deposits and ensure that fuel design limits are not exceeded during any conditions of normal operation, including the effects of anticipated operational occurrences. NEI stated that any accumulation of crud that interfered with coolant flow would be detected quickly by pressure drop monitoring throughout the reactor cooling system.

A consortium of nuclear power plants, Strategic Teaming and Resource Sharing (STARS), supported the arguments against the petition presented by NEI and stated that STARS opposed the subject petition. STARS stated that chemistry controls and core design constraints are in place to reduce susceptibility to heavy crud deposition and that during operation, chemistry indicators and core power measurements are evaluated continuously for evidence of heavy crud deposition or movement. STARS also stated that visual inspections of fuel assemblies during refueling have found no evidence of heavy crud deposits. STARS stated that it does not believe that nuclear safety would be enhanced by adopting the requested rulemaking.

GE Nuclear Energy stated that the supplemental petition for rulemaking held no technical merit. GE stated that the requested revision of the ECCS evaluation basis and criteria is based on a single event that occurred at one plant during one cycle of operation; that the unique condition of heavy crud buildup has occurred only once in over 1,000 reactor years of BWR operation, and the postulated scenario (rapid and uncontrollable fuel and core melt) is not a credible scenario as shown by the damage characteristics observed for the cited event; and that the postulated inability to effectively detect and mitigate the occurrence of a heavy-crud-induced fuel damage condition during normal operation is invalid, as was adequately shown by the responsible and effective actions taken by the affected plant.

Tennessee Valley Authority (TVA), a nuclear power plant licensee, stated that the requested revisions in the supplemental petition are unnecessary because current regulations adequately address the impact of fuel crud deposits on the cooling of nuclear fuel during normal reactor operations. In addition, TVA supported the comments submitted by NEI.

Westinghouse Electric Company opposed the action requested in PRM–50–73, stating that the postulated scenario leading to rapid core melting is completely speculative and is not supported by technical or scientific data. Westinghouse also noted that the regulations recommended for modification in PRM–50–73A are not related to normal operating conditions, but rather apply to LOCAs.

NRC Technical Evaluation

The NRC reviewed each of the petitioner's claims and provides the following analysis.

1. The petitioner stated that a licensed power reactor operated with unusually heavy crud deposits on many of the fuel

rods, which could lead to restricted coolant flow and ultimate core meltdown.

The event referred to by the petitioner occurred at the River Bend Station in 1999. A coolant chemistry excursion occurred with relatively high iron and copper levels, leading to unusually heavy crud deposition. As the licensee event report (LER 50–458/99–016–00) indicated, the occurrence of this event was unusual and only happened once. The NRC staff has not found any other nuclear power plants that experienced this unusually heavy crud formation. Although a thin oxidation layer appears in almost every operating reactor, the staff considers heavy crud build up to be extremely rare. Therefore, the probability of a large break LOCA occurring while some of the high power fuel bundles have severe crud deposition is significantly lower than that of the LOCA alone and thus reduces the estimated risk of this scenario.

2. The petitioner contended that if a fast moving LOCA had occurred with severe crud deposited on some high power fuel bundles, extensive blockage of the flow channels within the fuel bundles would likely have developed. In addition, he stated that during a blowdown, the redistribution of crud into any or all of several restricted channels would result in substantial flow blockage. The petitioner postulated that the crud would break off during a LOCA to form a blockage at the down stream fuel grid locations.

The operating experience relative to significant crud deposits has been that the observed crud is powdery or fluffy. During a large-break LOCA, even if crud broke off, only small solid particles are expected to be carried downstream. No data was provided in the petition to support the petitioner's rationale for crud blockage. The NRC also reviewed records of licensee event reports and found no test data or documents supporting the assumption that the crud might break off and form a flow blockage. Therefore, the NRC believes that the petitioner's concerns about the flow blockage due to crud are not supported by technical or scientific data.

3. The petitioner stated that if severe crud existed within the fuel bundles, the crud could lead to a loss of cooling with consequent overheating of zirconium and rapid autocatalytic zirconium-water reactions of the fuel cladding.

The NRC agrees that heavy crud could cause higher-than-normal fuel cladding temperatures due to the additional heat transfer resistance during normal operation and postulated accidents. In particular, the porous form of crud could function as an insulator between the zirconium cladding and the coolant. If the metal-water reaction is assumed to occur, this additional layer of material would also form a shield between the coolant and the cladding material that would reduce the metal-water reaction rate. Should the metal-water reaction occur, the steam from the coolant stream would need to penetrate inward through the crud layer in order to reach the cladding, and the resulting hydrogen generated at the cladding surface would need to penetrate outward through the crud. Therefore, compared to a bare metal surface at the same temperature, a fuel rod with a layer of crud would be expected to have a reduced metal-water reaction rate, thus reducing the additional heat generated by the metal-water reaction. It would be inappropriate to consider only the additional heat transfer resistance and assume zero reduction of the metal-water reaction rate. Some locations where the crud has cracks would not see the reduction of the metal-water reaction. However, at these locations, it is expected that the steam would directly cool the bare metal surface and form a colder surface region before the temperature rose high enough to trigger the metal-water reaction. Therefore, the NRC has concluded that the petitioner's concern about autocatalytic zirconium-water reactions is not valid.

4. The petitioner asserted that 10 CFR 50.46 does not address the impact of crud on core cooling during the large-break LOCA.

Section 50.46 (b)(4) provides a requirement regarding the cooling of the core. This section states: ''Calculated changes in core geometry shall be such that the core remains amenable to cooling''. In addition, Section I.C.3 of Appendix K to part 50 states: ''The following effects shall be taken into account in the conservation of momentum equation: * * * (3) area change momentum flux * * * (6) pressure loss resulting from area change * * *''. Many phenomena and mechanisms may cause a change in core geometry (*e.g.*, the rod ballooning effect, thermal expansion, crud buildup). It is not necessary for the regulation to explicitly include all the possible mechanisms causing a change in core geometry.

Although the scenario of a large break LOCA coinciding with heavy crud formation is considered a low probability event, NRC's Standard Review Plan (SRP) for ECCS has already defined detailed requirements to monitor the effect of crud deposits. The SRP outlines a comprehensive set of acceptance criteria that serve to demonstrate compliance with regulatory requirements. Three acceptance criteria that specifically address the impact of fuel crud deposits are provided below:

SRP Section 4.2 Fuel System Design, Acceptance Criterion II.A.1.(d)

''Oxidation, hydriding, and the buildup of corrosion products (crud) should be limited. Allowable oxidation, hydriding, and crud levels should be discussed in the Safety Analysis Report and shown to be acceptable.''

SRP Section 4.4 Thermal and Hydraulic Design (II. Acceptance Criteria)

''8. The effects of crud should be accounted for in the thermal-hydraulic design by including it in the CHF [critical heat flux] calculations in the core or in the pressure drop throughout the RCS [reactor coolant system]. Process monitoring provisions should assure the capability for detection of a three percent drop in the reactor coolant flow. The flow should be monitored every 24 hours.''

SRP Section 4.4 Thermal and Hydraulic Design (III. Review Procedures)

''The reviewer ensures that adequate account is taken of the effect of crud in the primary coolant system, such as in the calculation of CHF in the core, heat transfer in the steam generators, and pressure drop throughout the RCS.''

The NRC staff believes that these guidelines adequately address the impacts of fuel crud on normal reactor operation and ECCS performance during a large break LOCA.

In addition, strong incentives exist for the nuclear industry to control crud buildup. Excessive crud formation could lead to operation at reduced power levels or even shutdown if coolant activity levels (suspended activated corrosion products) were to exceed technical specifications. Activated crud deposition throughout plant systems increases dose-rates that result in costly increases in worker doses. Because the industry is required to demonstrate efforts to maintain occupational doses as low as is reasonably achievable (ALARA), the NRC believes that incentives for optimizing power output and minimizing occupational doses are strong. EPRI water chemistry guidelines that the industry follows provide effective methods to control crud formation and buildup. Occupational doses over the past fifteen years have declined, and sustained power output levels have increased, suggesting that

crud control incentives and methods are effective.

5. In PRM–50–73A, the petitioner contended that if the deposits continued to build during normal reactor operation, a severe crud buildup might form. Blockage of the flow within the fuel bundles would likely develop and overheating of the cladding would trigger an autocatalytic [*i.e.*, self-propagative] zirconium-water reaction. Subsequently, the petitioner stated that buildup could initiate substantial and rapid localized core melting while the reactor is at (full) power. Further, the petitioner contended that a reactor may be operated within its licensing basis and the technical specifications during the transition from unusually heavy crud to severe crud. The petitioner made a hypothesis that the increase of the off-gas system activity would not be regarded as an indicator of a possible heavy crud deposition and, therefore, the plant would continue to operate until the transition from heavy crud deposition to a severe level occurs.

Crud build-up is generally a very slow process. With water chemistry control, the transition time from heavy crud to severe crud deposition will be on the order of weeks. Even before the formation of a heavy crud layer, the elevated cladding temperature due to crud can cause crud-assisted corrosion which usually results in pin-hole type fuel cladding damage. The longer the rod experiences the elevated temperature caused by the crud, the more damage to the fuel rod cladding would occur. With only a few fuel rods damaged, the off-gas activity would increase. Abnormally high activity readings in the off-gas system require operators to take action to mitigate fuel cladding damage. In several cases at different operating reactors, the operators were able to adjust the control rod pattern to lower the local power peaking factor around the damaged fuel bundles after the high off-gas system activity reading was observed even though the activity levels were below the technical specifications limit. Therefore, observed practice shows that fuel cladding damage due to excess crud formation is readily detectable during normal operation, and effective mitigation measures have been taken by operators.

Under conditions where heavy crud deposition occurs, fuel damage could eventually lead to cladding cracks or ballooning effects. The crud layer may then break off and fuel pellets will be cooled directly by the water, thus lowering the cladding temperature. Although the elevated cladding temperature could theoretically trigger a metal-water reaction in a very limited area of the fuel cladding, the crud also shields the cladding from the water and causes significant resistance to the metal-water reaction. Therefore, the NRC has concluded that the petitioner's concern about autocatalytic zirconium-water reactions is not valid.

Furthermore, the NRC has not found any evidence to support the petitioner's view that the off-gas activity would stay below the technical specification limit while the heavy crud deposition continues. Operating experience has shown that if a reactor operates continuously under heavy crud conditions, the cladding damage will result in higher off-gas activity readings that are quickly noted by the plant operators. It is highly unlikely that the off-gas activity would remain undetected by plant operators. Recent operating experience at plants with leaking fuel demonstrates that plant operators quickly take action to suppress fuel leaks, and in many cases, shut down the reactor to inspect and replace leaking fuel.

Finally, crud formation is one of many items which are required to be considered for both LOCA and transient safety analyses, and existing regulations and the NRC Standard Review Plan already provide adequate guidance on addressing the impact of crud on plant safety.

NRC Strategic Performance Goals

The NRC has evaluated the advantages and disadvantages of the rulemaking requested by the petitioner with respect to the four NRC Strategic Performance Goals as follows:

1. *Maintaining Safety:* The NRC believes that the requested rulemaking would not make a significant contribution to maintaining safety because current regulations and regulatory guidance already address the effect of crud-related parameters on core cooling, because no existing data suggests that the amount of crud normally deposited on reactor fuel can significantly interfere with coolant flow, and because the probable cause of the single event at River Bend Station noted by the petitioner, namely a transient coolant chemistry excursion with high iron and copper levels, is known and has been corrected. The NRC believes that existing regulations, guidance and practices provide for monitoring, detecting and correcting any possible crud effects on core cooling before any significant safety problems could occur.

2. *Enhancing Public Confidence:* The NRC believes that the proposed revisions would not enhance public confidence. First, the NRC has concluded that the petitioner's contentions lack an adequate technical basis. Second, current regulations and guidance already address the effects of normal crud accumulation on core cooling. The petitioner's request in effect would require that substantial, additional consideration be given to abnormally heavy accumulations of crud as a potential source of coolant flow obstruction, which is a condition that has never been observed. Taking such an unnecessary action may actually detract from public confidence in the NRC as an effective regulator.

3. *Improving Efficiency, Effectiveness, and Realism:* The proposed revisions would not improve efficiency, effectiveness, and realism because licensees would be required to generate unnecessary additional information as part of the development of their ECCS evaluation models and the NRC would need to evaluate the licensee's data and analysis. The NRC staff believes that this additional consideration is unnecessary because the petitioner's scenarios are not supported by a technical basis. The additional NRC staff and licensee effort would not improve efficiency or effectiveness. In addition, the NRC resources expended to promulgate the rule and supporting regulatory guidance would be significant and is unnecessary.

4. *Reducing Unnecessary Regulatory Burden:* The requested rule would increase licensee burden by unnecessarily requiring significant additional testing and analysis of ECCS effectiveness.

Reasons for Denial

The Commission is denying the petitions for rulemaking. Section 50.46 currently requires a nuclear power plant applicant/licensee to address the impacts of the core geometry change on cooling in ECCS analyses. An acceptable implementation of this requirement has been documented in the Commission's Standard Review Plan, which specifically addresses the potential buildup of crud and its effects for ECCS analyses and transient analyses. The petitioner's hypothetical discussion of fuel clad performance with severe levels of crud buildup was not supported by modeling, experimental results or operational data sufficient to demonstrate that fuel with high crud levels will actually behave in the manner postulated by the petitioner. The NRC believes that there are other phenomena the petitioner failed to consider that would tend to reduce metal-water reactions and counteract autocatalytic reactions even if the extreme conditions postulated by the

petitioner could be reached. The operating experience at several nuclear power plants that have experienced fuel failures shows that fuel degradation has progressed in a manner which is controllable. The event (River Bend) identified by the petitioner as evidence of the likelihood of high crud levels occurred only once at that plant and has not been repeated there, or at any other plant in the United States. Finally, technical specifications for monitoring of reactor coolant activity and the requirements in 10 CFR Part 20 to maintain occupational exposures as low as reasonably achievable have resulted in licensee operational practices for early identification of coolant activity increase due to crud deposits before they build to the levels postulated by the petitioner. The Commission considers that the petitioner's hypothetical discussion of a mechanism preventing early detection of abnormal activity levels is not credible. For these reasons, the Commission has determined that the petitioner's bases for requesting rulemaking have not been substantiated.

For these reasons, the Commission denies PRM–50–73 and PRM–50–73A.

Dated at Rockville, Maryland, this 9th day of July, 2003.

For the Nuclear Regulatory Commission

Annette Vietti-Cook,

Secretary of the Commission.

[FR Doc. 03–17963 Filed 7–15–03; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–SW–07–AD]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model EC120B Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes adopting a new airworthiness directive (AD) for the specified Eurocopter France (Eurocopter) model helicopters. This proposal would require operators to either temporarily or permanently secure the electrical bonding braid (bonding braid) that is installed on the left cyclic pitch control stick base within 10 hours time-in-service (TIS) and, if temporarily secured, installing a permanent attachment system for the bonding braid within 500 hours TIS or 12 months, whichever occurs first. This proposal is prompted by a report of a bonding braid twisting around the attachment nut installed on the bolt that connects the roll channel torque link to the left-hand cyclic pitch control stick. The actions specified by this proposed AD are intended to prevent an unsecured bonding braid from restricting travel of the cyclic pitch control stick, and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before September 15, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2003–SW–07–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: *9-asw-adcomments@faa.gov.* Comments may be inspected at the Office of the Regional Counsel between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Richard Monschke, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0110, telephone (817) 222–5116, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this document may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this proposal must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 2003–SW–07–AD.'' The postcard will be date stamped and returned to the commenter.

Discussion

The Direction Generale De L'Aviation Civile (DGAC), the airworthiness authority for France, notified the FAA that an unsafe condition may exist on Eurocopter Model EC 120 B helicopters. The DGAC advises that there was a report involving twisting of a bonding braid at the base of a cyclic stick that restricted movement of the cyclic pitch sticks.

Eurocopter has issued Alert Telex No. 67A008, dated July 8, 2002, which specifies installing a clamp to position the bonding braid upwards and holding it against the cyclic pitch stick. DGAC classified this alert telex as mandatory and issued AD 2002–371–010(A), dated July 24, 2002, to ensure the continued airworthiness of these helicopters in France.

This helicopter model is manufactured in France and is type certificated for operation in the United States under the provisions of 14 CFR 21.29 and the applicable bilateral agreement. Pursuant to the applicable bilateral agreement, DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

The previously described unsafe condition is likely to exist or develop on other helicopters of the same type design registered in the United States. Therefore, the proposed AD would require, within 10 hours TIS, temporarily or permanently securing the bonding braid using clamps, then, if not already accomplished, installing a permanent attachment system within 500 hours TIS or 12 months, whichever occurs first. Installing the permanent attachment system is a terminating action for the requirements of this AD. The actions would be required to be accomplished in accordance with the alert telex described previously.

On July 10, 2002, the FAA issued a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's AD system. The regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. Because we have now included this

material in part 39, we no longer need to include it in each individual AD.

The FAA estimates that this proposed AD would affect 80 helicopters of U.S. registry and the proposed actions would take approximately 0.5 work hour per helicopter to accomplish the modification to temporarily secure the bonding braid, and 0.5 work hour to install a permanent attachment system. The average labor rate is $60 per work hour. Required parts would cost approximately $20 per helicopter. Based on these figures, we estimate the total cost impact of the proposed AD on U.S. operators to be $6,400 for the entire fleet, assuming that all operators install the temporary restraint, and subsequently, install the permanent restraint.

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

Eurocopter France: Docket No. 2003–SW–07–AD.

Applicability: Model EC120B helicopters, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent an unsecured bonding braid from restricting travel of the cyclic pitch control stick, and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 10 hours time-in-service (TIS), temporarily secure the electrical bonding braid or install the permanent attachment system for the bonding braid in accordance with the Accomplishment Instructions, paragraph 2.B., of Eurocopter France Alert Telex No. 67A008, dated July 8, 2002 (Alert Telex).

(b) Within 500 hours TIS or 12 months, whichever occurs first, install the permanent attachment system for the bonding braid in accordance with the Accomplishment Instructions, paragraphs 2.B.2. and 2.B.3., of the Alert Telex.

(c) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Send the proposal to the Manager, Safety Management Group, FAA. Contact the Safety Management Group for information about previously approved alternative methods of compliance.

Note: The subject of this AD is addressed in Direction Generale De L'Aviation (France) AD 2002–371–010(A), dated July 24, 2002.

Issued in Fort Worth, Texas, on July 1, 2003.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 03–17955 Filed 7–15–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–SW–18–AD]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model AS350B, B1, B2, B3, BA, C, D, D1, and AS355E, F, F1, F2, and N Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes superseding an existing airworthiness directive (AD) for the specified Eurocopter France (Eurocopter) Model AS350B, B1, B2, B3, BA, D, and AS355E helicopters that currently requires removing certain serial-numbered main servocontrols before further flight. This action would contain the same requirements but would also require removing certain other main and tail servocontrols on or before 550 hours time-in-service (TIS) or 24 months, whichever occurs first. Also, this action would add the Eurocopter Model AS350C, D1, and AS355F, F1, F2, and N helicopters to the applicability. This proposal is prompted by the discovery of a manufacturing defect in another set of servocontrols. The actions specified by the proposed AD are intended to prevent failure of a main or tail servocontrol in the flight control system and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before September 15, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2003–SW–18–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: *9-asw-adcomments@faa.gov.* Comments may be inspected at the Office of the Regional Counsel between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Uday Garadi, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations and Guidance Group, Fort Worth, Texas 76193–0110, telephone (817) 222–5123, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this document may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report

summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this proposal must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 2003–SW–18–AD.'' The postcard will be date stamped and returned to the commenter.

Discussion

On December 21, 2001, the FAA issued Emergency AD 2001–26–53 (EAD). That EAD was published in the **Federal Register** as a final rule; request for comments on January 22, 2002, Docket No. 2001–SW–70–AD, Amendment 39–12605 (67 FR 2804). The AD requires removing certain serial-numbered main servocontrols from service. That action was prompted by a report of manufacturing defects in a batch of main servocontrols. The actions specified by the AD are intended to prevent failure of a main or tail servocontrol in the flight control system and subsequent loss of control of the helicopter.

Since issuing that AD, the manufacturer discovered that not all servocontrols had been nondestructive tested as required, and further investigations showed that another set of servocontrols could be affected by the same fault as discovered previously.

The FAA has reviewed Eurocopter Alert Service Bulletin No. 01.00.48 for Model AS355E, F, F1, F2, and N helicopters and No. 01.00.52 for Model AS350B, BA, B1, B2, B3, BB, and D helicopters, both dated May 16, 2002, which advise replacing certain main servocontrols before further flight and certain other main and tail servocontrols within 550 hours or 24 months.

The Direction General De L'Aviation Civile (DGAC), the airworthiness authority for France, notified the FAA that an unsafe condition may exist on Eurocopter Model AS350B, BB, B1, B2, B3, BA, D, and AS355E, F, F1, F2, and N helicopters. The DGAC advises of the discovery of a manufacturing fault on a set of servocontrols. The DGAC classified the Eurocopter alert service bulletins as mandatory and issued AD No. 2003–099(A) (for Model AS 350 helicopters) and No. 2003–100(A) (for Model AS 355 helicopters), both dated March 5, 2003, to ensure the continued airworthiness of these helicopters.

These helicopter models are manufactured in France and are type certificated for operation in the United States under the provisions of 14 CFR 21.29 and the applicable bilateral agreement. Pursuant to the applicable bilateral agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of these type designs that are certificated for operation in the United States.

The previously described unsafe condition is likely to exist or develop on other helicopters of the same type designs. Therefore, the proposed AD would supersede AD 2001–26–53 to retain the requirement to remove certain main servocontrols before further flight but would also require removing certain main and tail servocontrols within 550 hours TIS or 24 months, whichever occurs first. Also, the proposed AD would add the Eurocopter Model AS350C, D1, and AS355F, F1, F2, and N helicopters to the applicability. Even though neither the Eurocopter alert service bulletin nor the DGAC AD address the Model AS350C and D1 helicopters, those type designs may contain affected servocontrols.

On July 10, 2002, the FAA issued a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's AD system. The regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. Because we have now included this material in part 39, we no longer need to include it in each individual AD.

The FAA estimates that this proposed AD would affect 627 helicopters and would take approximately ½ work hour to identify the affected servocontrols and 2 work hours to replace each servocontrol at an average labor rate of $60 per work hour. Required parts would cost approximately $9200 per servocontrol. Based on these figures, we estimate the total cost impact of the AD on U.S. operators to be $5,154,130, assuming 551 servocontrols are replaced.

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–12605 (67 FR 2804, January 22, 2002), and by adding a new airworthiness directive (AD), to read as follows:

Eurocopter France: Docket No. 2003–SW–18–AD. Supersedes AD 2001–26–53, Amendment 39–12605, Docket No. 2001–SW–70–AD.

Applicability: Model AS350B, B1, B2, B3, BA, C, D, D1, and AS355E, F, F1, F2, and N helicopters, certificated in any category, except those helicopters with TRW–SAMM main and tail servocontrols that have been reconditioned and identified by the letter ''V'' engraved on the identification plate on the right-hand side of the part number (P/N).

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of a servocontrol in the flight control system and subsequent loss of control of the helicopter, accomplish the following:

(a) Before further flight, remove each main servocontrol, P/N SC5083, serial number (S/N) 1500 through 1515, and P/N SC5084, S/N 722 through 726.

(b) On or before 550 hours time-in-service or 24 months, whichever occurs first, remove the following main or tail servocontrols, P/N and S/N:

(1) P/N SC5081–1, with S/N 78, 89, 227, 240, 315, 362, 427, 451, 452, 492, 497, 498, 506, 512, 532, 550, 556, or 561.

(2) P/N SC5082–1, with S/N 045, 180, 194, 197, 254, or 264.

(3) P/N SC5083, with S/N 01, 03, 05, 082, 17, 21, 40, 43M, 65M, 77, 87, 103M, 106M,

107, 109, 128, 129, 138, 139, 144, 148, 152, 206, 207, 218, 221, 226, 235, 239, 240, 241, 243, 254, 256, 269, 286, 287, 290, 291, 302, 312, 321, 325, 327, 330, 331, 334, 338, 339, 347M, 356M, 365, 371, 372, 378M, 380M, 389, 412M, 418, 423, 428, 439, 484M, 503, 505, 525, 526, 528, 529, 573M, 587, 594M, 598, 612, 622, 1150 through 1155, 1157, 1159 through 1169, 1180 through 1199, 1207, 1208, 1210 through 1259, 1269, or 1291 through 1499.

(4) P/N SC5084, with S/N 013, 025, 31, 75, 087, 87, 101M, 102, 105, 108, 136, 160, 162, 165M, 203, 205, 205M, 209, 220, 225, 232M, 239M, 267M, 271, 288M, 292, 300, 320, 364M, 458, 612, 627, 630, 632 through 634, 636 through 652, 654, 656 through 660, 682 through 721, 727 through 731, or 733 through 756.

(5) P/N SC5071–1, with S/N 343 or 389.

(6) P/N SC5072, with S/N 003, 35, 108, 197, 216M, 253M, 339M, 347M, 432M, 700 through 724, 726 through 744, 763 through 768, 783 through 789, or 820 through 883.

(c) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Safety Management Group, Rotorcraft Directorate, FAA, for information about previously approved alternative methods of compliance.

(d) Special flight permits will not be issued.

Note: The subject of this AD is addressed in Direction General De L'Aviation Civile, France, AD Nos. 2003–099(A) and 2003–100(A), both dated March 5, 2003.

Issued in Fort Worth, Texas, on July 9, 2003.

Mark R. Schilling,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 03–17954 Filed 7–15–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–SW–58–AD]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model AS332C, AS332L, AS332L1, and AS332L2 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes adopting a new airworthiness directive (AD) for Eurocopter France (Eurocopter) Model AS332C, AS332L, AS332L1, and AS332L2 helicopters. This proposal would require inspecting certain main rotor blades for disbonds, which may be indicated by cracking, and repairing or replacing each main rotor blade (MRB) as necessary. This proposal is prompted by the discovery of disbonded leading edge protective strips. The actions specified by this proposed AD are intended to detect disbonding between the stainless steel protective strip and the MRB skin, which could cause loss of the protective strip, an out-of-balance condition, and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before September 15, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2002–SW–58–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: *9–asw–adcomments@faa.gov*. Comments may be inspected at the Office of the Regional Counsel between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jim Grigg, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Safety Management Group, Fort Worth, Texas 76193–0110, telephone (817) 222–5490, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this document may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this proposal must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No 2002–SW–58–AD.'' The postcard will be date stamped and returned to the commenter.

Discussion

The Direction Generale De L'Aviation Civile (DGAC), the airworthiness authority for France, notified the FAA that an unsafe condition may exist on Eurocopter Model AS332 C, L, and L1 helicopters. The DGAC advises that checking each MRB to ensure the adhesion of the glass cloth blade cap, which is located between the MRB skin and the leading edge stainless steel protective strips, is necessary.

Eurocopter has issued AS 332 Service Bulletin 05.00.22, Revision 4, dated April 6, 2000, for the Model AS332C, L, L1, and L2 helicopters, which specifies checking for cracking developing spanwise along the stainless steel leading edge over a chordwise width of 0 to 6mm aft of the stainless steel strip on the MRB upper and lower surfaces. If spanwise cracking is found that is greater than 30mm or if the distance between two cracks is less than 40mm, a sound check using a tapping method to check the bonding is specified. If disbonding is present, measuring the depth of each disbond with a feeler gauge is specified. If the depth of the disbond exceeds 10mm, returning the MRB to the works for repair is specified. If no disbonding is present, or if the disbond is less than 10mm, reconditioning the MRB by removing the cracked caulking material and recaulking the blade is specified. The DGAC classified this service bulletin as mandatory and issued AD 1988–099–035(A) R5, dated June 14, 2000, to ensure the continued airworthiness of certain of these helicopters in France.

This helicopter model is manufactured in France and is type certificated for operation in the United States under the provisions of 14 CFR 21.29 and the applicable bilateral agreement. Pursuant to the applicable bilateral agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of these type designs that are certificated for operation in the United States.

This unsafe condition is likely to exist or develop on other helicopters of the same type designs registered in the United States. Therefore, the proposed AD would require inspecting each MRB for disbonding within 100 hours time-in-service (TIS), and repairing or replacing each MRB as necessary. Thereafter, repetitive inspections are

required at different intervals, based on the MRB serial number. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 3 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per helicopter to inspect each MRB (8 hours per helicopter), and that an estimated 2 MRB's per helicopter will have to be removed and replaced with airworthy MRB's, requiring 3 work hours to remove and replace each MRB. The average labor rate is $65 per work hour. The estimated cost of parts is $50,000 for each blade. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $302,730.

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

Eurocopter France: Docket No. 2002–SW–58–AD.

Applicability:

Group 1: Model AS332C, L, and L1 helicopters with main rotor blade (MRB), part number (P/N) 332A11–0022–00 through –03; P/N 332A11–0022–04, except those incorporating MOD 0740596; P/N 332A11–0024–00 through –05; and P/N 332A11–0025–00 through –05, installed certificated in any category.

Group 2: Model AS332C, L, and L1 helicopters with MRB, P/N 332A11–0022–04, that incorporates MOD 0740596; P/N 332A11–0024–06 and all higher dash numbers; and P/N 332A11–0025–06 and all higher dash numbers; and Model AS332L2 helicopters with MRB, P/N 332A11–0040—all dash numbers, installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Helicopters listed in ''Group 1'' of the ''Applicability'' section of this AD, comply within 100 hours time-in-service (TIS) and thereafter at intervals not to exceed 100 hours TIS for MRB's having a serial number listed in the following table:

126	127	131	132	134	137	139	154	156	160
162	168	171	176	196	208	209	211	219	223
224	225	226	242	253	261	272	310	327	342
377	378	379	381	383	386	391	392	394	395
398	399	404	419	422	423	424	425	426	443
455	456	458	462	482	668	744	885	909	1019
1031	1032	1033	1036	1051	1055	1061	1070	1099	1101
1106	1117	1151	1155	1157	1158	1162	1167	1168	1169
1186	1198	1201	1205	1210	1213	1242	1246	1248	1268
1332	1410	1524							

For helicopters listed in ''Group 1'' of the ''Applicability'' section of this AD, with MRB's having a serial number not listed in the previous table, comply within 100 hours TIS, and thereafter at intervals not to exceed 250 hours TIS.

For helicopters listed in ''Group 2'' of the ''Applicability'' section of this AD, with MRB's having 400 or more hours TIS, comply within 100 hours TIS, and thereafter at intervals not to exceed 500 hours TIS; and

For helicopters listed in ''Group 2'' of the ''Applicability'' section of this AD, with MRB's having less than 400 hours TIS, comply prior to the MRB's accumulating 500 hours TIS, and thereafter at intervals not to exceed 500 hours TIS.

To detect disbonding between the stainless steel protective strip and the MRB skin, which could cause loss of the protective strip, an out-of-balance condition, and subsequent loss of control of the helicopter, accomplish the following:

(a) Inspect each MRB for disbonding in accordance with paragraph 2.B.1. of the Accomplishment Instructions in Eurocopter AS 332 Service Bulletin No. 05.00.22, Revision 4, dated April 6, 2000 (SB).

(b) If there is spanwise cracking which exceeds 30mm (1.18 inches) or there are 2 or more cracks with less than 40mm (1.57 inches) spacing, remove or support the MRB, remove any protective shield, and perform a tapping test on the leading edge of the MRB.

(c) If the tapping test does not indicate a disbond, repair the crack in accordance with paragraph 2.B.2.a) of the Accomplishment Instructions in the SB and recaulk and apply touch-up paint in accordance with paragraph 2.B.3. of the Accomplishment Instructions in the SB.

(d) If the tapping test indicates a disbond, measure the depth of the disbond in accordance with paragraph 2.B.2.b) and 2.B.2.c) of the Accomplishment Instructions in the SB.

(1) If disbonding is less than 10mm in depth, repair the crack in accordance with paragraph 2.B.2.a) of the Accomplishment Instructions in the SB, and recaulk and apply touch-up paint in accordance with paragraph 2.B.3. of the Accomplishment Instructions in the SB.

(2) If disbonding is 10mm or greater in depth, the MRB is unairworthy and must be replaced before further flight.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Safety Management Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and

then send it to the Manager, Safety Management Group.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Safety Management Group.

(f) Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in Direction Generale De L'Aviation Civile (France) AD 1988–099–035(A) R5, dated June 14, 2000.

Issued in Fort Worth, Texas, on July 9, 2003.

Mark R. Schilling,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 03–17953 Filed 7–15–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–SW–09–AD]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model SA–365N, N1, AS–365N2, and AS 365 N3 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes adopting a new airworthiness directive (AD) for the specified Eurocopter France (Eurocopter) model helicopters. This proposal would require inspecting the fuel air vent hoses (air vent hoses) for chafing and fuel leakage in the interference areas, inspecting the length of the latch support attachment screws, installing spacers to prevent interference with the latch support attachment screws, and removing one tyrap clamp support. This proposal is prompted by a report of a fuel leak in the air vent hose at the 9° frame on the pilot's side of the helicopter. The actions specified by this proposed AD are intended to prevent fuel leakage, toxic fumes inside the cabin creating a fire hazard that could lead to a fire and smoke in the cabin, and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before September 15, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2003–SW–09–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: *9-asw-adcomments@faa.gov*. Comments may be inspected at the Office of the Regional Counsel between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ed Cuevas, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Safety Management Group, Fort Worth, Texas 76193–0111, telephone (817) 222–5355, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this document may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this proposal must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 2003–SW–09–AD.'' The postcard will be date stamped and returned to the commenter.

Discussion

The Direction Generale De L'Aviation Civile (DGAC), the airworthiness authority for France, notified the FAA that an unsafe condition may exist on Eurocopter Model AS 365N, N1, N2, and AS 365 N3 helicopters. The DGAC advises of a report of a fuel leak that was discovered on the cabin floor of an aircraft, at the air vent hose, at the 9° frame, on the pilot's side. The fuel leak was caused by interference between the air vent hose and the attachment screws of the latch support of the right-hand front passenger door.

Eurocopter has issued Alert Telex No. 28.00.31, dated January 14, 2003, that describes:

- Checking the condition of the air vent hoses in the interference areas for damage to the external protection of the air vent hoses and fuel leaks, and if leaks are discovered, replacing the hoses and if the external protection is damaged, replacing the hose at 500 hours time-in-service (TIS);
- Protecting the air vent hoses in the interference areas with adhesive tape;
- Checking the attachment screws of the latch support on the right-hand and left-hand sides for correct length;
- On the right-hand side of the aircraft, installing spacers to prevent any interference between the attachment screws of the latch support and the air vent hose; and
- On the left-hand side of the aircraft, removing one of the tyrap clamp supports that secure the air vent hose to the 9° frame at the latch support.

The DGAC classified this alert telex as mandatory and issued AD 2003–028(A), dated February 5, 2003, to ensure the continued airworthiness of these helicopters in France.

These helicopter models are manufactured in France and are type certificated for operation in the United States under the provisions of 14 CFR 21.29 and the applicable bilateral agreement. Pursuant to the applicable bilateral agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of these type designs that are certificated for operation in the United States.

This previously described unsafe condition is likely to exist or develop on other helicopters of the same type design registered in the United States. Therefore, the proposed AD would require, within 50 hours TIS or 1 month, whichever occurs first, inspecting the fuel air vent hoses for chafing and fuel leakage in the interference areas and replacing leaking air vent hoses. It would also require inspecting the length of the latch support attachment screws on both passenger doors, and if necessary, installing airworthy attachment screws. The proposed AD would also require installing spacers to prevent interference with the latch support attachment screws and the removal of one tyrap clamp support. These actions would be required to be

accomplished in accordance with the alert telex described previously.

On July 10, 2002, the FAA issued a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's AD system. The regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. Because we have now included this material in part 39, we no longer need to include it in each individual AD.

The FAA estimates that this proposed AD would affect 45 helicopters of U.S. registry and the proposed actions would take approximately 3 work hours per helicopter to accomplish at an average labor rate of $60 per work hour. Two additional work hours would be required to replace a hose. Required parts would cost approximately:

- $229 for the air vent hose, part number (P/N) 365A55–3044–07 (3 each estimated);
- $139 for the air vent hose, P/N 365A55–3044–09 (3 each estimated);
- $1 for the spacer, P/N E0688–02 (2 each required per helicopter);
- $1 for the screw, P/N 22256BC040012L (4 each per helicopter);
- $1 for the screw, P/N 22256BC040012L (2 each per helicopter); and
- $.50 for the clamp, P/N E0043–1C0 (2 each per helicopter).

Based on these figures, we estimate the total cost impact of the proposed AD on U.S. operators would be $9,609, assuming that six air vent hoses (3 of each kind) would need to be replaced and 2 spacers, 6 screws, and 2 clamps would be replaced in the entire fleet.

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

Eurocopter France: Docket No. 2003–SW–09–AD.

Applicability: Model SA–365N, N1, AS–365N2, and AS 365 N3 helicopters, certificated in any category.

Compliance: Within the next 50 hours time-in-service (TIS) or 1 month, whichever occurs first, unless accomplished previously.

To prevent fuel leakage, toxic fumes inside the cabin creating a fire hazard that could lead to a fire and smoke in the cabin, and subsequent loss of control of the helicopter, accomplish the following:

(a) In accordance with the Accomplishment Instructions, paragraph 2.B.2. of Eurocopter Alert Telex No. 28.00.31, dated January 14, 2003 (Alert Telex):

(1) Inspect the fuel air vent hose (air vent hose) on the right-hand (RH) and left-hand (LH) side of the helicopter for chafing and fuel leakage in the interference areas.

(i) Replace any leaking air vent hose before further flight, and

(ii) Modify any non-leaking air vent hose by wrapping it with adhesive tape before further flight.

(2) For any air vent hose with chafing damage, replace the air vent hose at the next 500-hour TIS inspection.

(b) Inspect the length of each attachment screw of the latch support on the RH and LH sides and, if the length exceeds 12 mm, replace the attachment screw in accordance with the Accomplishment Instructions, paragraph 2.B.3. of the Alert Telex.

(c) Install spacers for the air vent hose on the RH side between the attachment screws of the latch support and the air vent hose in accordance with the Accomplishment Instructions, paragraph 2.B.4. of the Alert Telex.

(d) Remove one of the tyrap clamp supports from the LH side that secures the air vent hose to the 9° frame at the latch support in accordance with the Accomplishment Instructions, paragraph 2.B.5. of the Alert Telex.

(e) Install latch supports on the RH and LH sides, and the covering panels on the 9° frame in accordance with the Accomplishment Instructions, paragraph 2.B.6. of the Alert Telex.

(f) Inspect the doors for correct closing, and if necessary, adjust the position of the microswitches (if installed) and the latches in accordance with the Accomplishment Instructions, paragraph 2.B.6. of the Alert Telex.

(g) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Send the proposal to the Manager, Safety Management Group, FAA. Contact the Safety Management Group for information about previously approved alternative methods of compliance.

Note: The subject of this AD is addressed in Direction Generale De L'Aviation Civile (France) AD 2003–028(A), dated February 5, 2003.

Issued in Fort Worth, Texas, on July 8, 2003.

Mark R. Schilling,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 03–17952 Filed 7–15–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–292–AD]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135 and EMB–145 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain EMBRAER Model EMB–135 and EMB–145 series airplanes, that currently requires revising the airplane flight manual and eventual disconnection of the precooler differential pressure switches. This action would expand the applicability of the existing AD. This action also would require a one-time inspection of those additional airplanes to ensure the disconnection and insulation of the electrical connectors of certain precooler differential pressure switches located in the left and right pylons; and disconnection and insulation of the connectors, if necessary. This action is necessary to prevent incorrect operation of the

precooler differential pressure switches, which could result in inappropriate automatic shutoff of the engine bleed valve, and consequent inability to restart a failed engine using cross-bleed from the other engine or possible failure of the anti-ice system. This action is also necessary to ensure that the flightcrew is advised of the procedures necessary to restart an engine in flight using the auxiliary power unit. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by August 15, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–292–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov*. Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–292–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1175; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NM–292–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–292–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On June 20, 2000, the FAA issued AD 2000–13–02, amendment 39–11801 (65 FR 39541, June 27, 2000), applicable to certain EMBRAER Model EMB–135 and EMB–145 series airplanes, to require revising the airplane flight manual (AFM) and eventual disconnection of the precooler differential pressure switches. That action was prompted by a report indicating that activation of the precooler differential pressure switches may cause inappropriate automatic shutoff of the engine bleed valve on airplanes on which EMBRAER Service Bulletin 145–36–0017, dated March 28, 2000, or the production equivalent, has been accomplished. The requirements of that AD are intended to prevent incorrect operation of the precooler differential pressure switches, which could result in inappropriate automatic shutoff of the engine bleed valve, and consequent inability to restart a failed engine using cross-bleed from the other engine or possible failure of the anti-ice system. The requirements of that AD are also intended to ensure that the flightcrew is advised of the procedures necessary to restart an engine in flight using the auxiliary power unit (APU).

Actions Since Issuance of Previous Rule

Since the issuance of that AD, the Departmento de Aviacao Civil (DAC), which is the airworthiness authority for Brazil, issued Brazilian airworthiness directive 2000–04–01R2, dated May 28, 2001, in order to assure the continued airworthiness of these airplanes in Brazil. That Brazilian airworthiness directive supersedes Brazilian airworthiness directive 2000–04–01R1 to add airplanes to the applicability section and to require an inspection of the affected area for the additional airplanes.

Explanation of Relevant Service Information

EMBRAER has issued Alert Service Bulletin 145–36–A018, Change 01, dated October 20, 2000. The effectivity section of the alert service bulletin includes additional airplanes. The alert service bulletin also describes procedures for a one-time visual inspection of those additional airplanes to ensure the disconnection and insulation of the electrical connectors of certain precooler differential pressure switches located in the left and right pylons; and disconnection and insulation of the connectors, if necessary. The DAC classified this alert service bulletin as mandatory.

FAA's Conclusions

These airplane models are manufactured in Brazil and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 2000–13–02 to continue

to require revising the AFM and eventual disconnection of the precooler differential pressure switches. The proposed AD would add airplanes to the applicability. The proposed AD also would require a one-time visual inspection of those additional airplanes to ensure the disconnection and insulation of the electrical connectors of certain precooler differential pressure switches located in the left and right pylons; and disconnection and insulation of the connectors, if necessary. Certain actions would be required to be accomplished in accordance with the alert service bulletin described previously.

Differences Between the Proposed AD and the Brazilian Airworthiness Directive

Operators should note that, for certain airplanes, this proposed AD would require, within 24 hours after the effective date of this proposed AD, revising the Limitations and Abnormal Procedures sections of the AFM as described previously. The Brazilian airworthiness directive does not require revising the AFM and states that dispatch with the APU inoperative is prohibited immediately upon receipt of their airworthiness directive 2000–04–01R2, until the accomplishment of the actions specified in EMBRAER Alert Service Bulletin 145–36A018, Change 01. The Brazilian airworthiness directive provides some guidance for engine starting assisted by the APU but does not provide the full details of this restart procedure. The FAA finds that the revision of the Limitations section described previously is necessary to mitigate the effects of incorrect operation of the precooler differential pressure switches until the switches are disconnected. The FAA also finds that replacement of the existing ''Engine Airstart'' procedure in the Abnormal Procedures section of the AFM is necessary to ensure that the procedure is clear and that the flightcrew is properly advised of how to restart a failed engine using the APU.

Changes to 14 CFR Part 39/Effect on the Proposed AD

On July 10, 2002, the FAA issued a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's airworthiness directives system. The regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance (AMOC). Because we have now included this material in part 39, only the office authorized to approve AMOCs is identified in each individual AD. Therefore, Note 1 and paragraph (e) of AD 2000–13–02 are not included in this proposed AD, and paragraph (d) of that AD has been revised in this proposed AD.

Cost Impact

There are approximately 365 Model EMB–135 and EMB–145 series airplanes of U.S. registry that would be affected by this proposed AD.

The AFM revision that is currently required by AD 2000–13–02 takes approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required AFM revision on U.S. operators is estimated to be $60 per airplane.

The disconnection of switches that is currently required by AD 2000–13–02 takes approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required disconnection of switches on U.S. operators is estimated to be $60 per airplane.

The new AFM revision that is proposed in this AD would take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed new AFM revision on U.S. operators is estimated to be $21,900, or $60 per airplane.

The inspection that is proposed in this AD would take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed inspection on U.S. operators is estimated to be $21,900, or $60 per airplane.

The disconnection of switches that is proposed by this AD would take approximately 2 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed modification on U.S. operators is estimated to be $43,800, or $120 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the current or proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–11801 (65 FR 39541, June 27, 2000), and by adding a new airworthiness directive (AD), to read as follows:

Empresa Brasileira de Aeronautica S.A. (EMBRAER): Docket 2001–NM–292–AD. Supersedes AD 2000–13–02, Amendment 39–11801.

Applicability: Model EMB–135 and EMB–145 series airplanes; as identified in EMBRAER Alert Service Bulletin 145–36–A018, Change 01, dated October 20, 2000; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent incorrect operation of the precooler differential pressure switches, which could result in inappropriate automatic shutoff of the engine bleed valve, and consequent inability to perform engine cross-bleed restarts or possible failure of the anti-ice system; and to ensure that the flightcrew is advised of proper procedures to restart an engine in flight using the auxiliary power unit; accomplish the following:

Restatement of Requirements of AD 2000–13–02

Revision to Airplane Flight Manual (AFM): Limitations Section

(a) For airplanes identified in AD 2000–13–02, amendment 39–11801: Within 24 hours after July 3, 2000 (the effective date of AD 2000–13–02, amendment 39–11801), revise the Limitations section of the AFM to include the following statements (this may be accomplished by inserting a copy of this AD into the AFM; following accomplishment of paragraph (c) of this AD, the revisions required by this paragraph may be removed from the AFM):

''THE APU MUST BE OPERATIVE FOR EVERY DEPARTURE. SINGLE BLEED OPERATION IN ICING CONDITIONS IS PROHIBITED.''

Revision to AFM: Abnormal Procedures Section

(b) For airplanes identified in AD 2000–13–02, amendment 39–11801: Within 24 hours after July 3, 2000, replace the existing ''ENGINE AIRSTART'' procedure in the Abnormal Procedures section of the AFM with the following procedures (this may be accomplished by inserting a copy of this AD into the AFM):

''ENGINE AIRSTART

Affected engine:

One Electric Fuel Pump (A or B).	ON
Ignition	AUTO
Start/Stop Selector	STOP
Engine Bleed	CLOSE
Thrust Lever	IDLE
Airspeed and Altitude	REFER TO AIRSTART ENVELOPE

Perform an assisted start or windmilling, as required.

CAUTION: IN ICING CONDITIONS USE CROSSBLEED START ONLY, TO AVOID LOSS OF ANTI-ICE SYSTEM PERFORMANCE.

Assisted Start:

Crossbleed Start:

N2 (operating engine)	ABOVE 80%
Crossbleed	AUTO OR OPEN
Engine Bleed (operating engine.	OPEN
Start/Stop Selector	START, THEN RUN
Engine Indication	MONITOR

Check ITT and N2 rising. Observe limits. Check ignition and fuel flow indication at 10% N2.

APU bleed start:

APU	START
APU Bleed	OPEN
Crossbleed	AUTO
Engine Bleed (operating engine).	CLOSE
Start/Stop Selector	START, THEN RUN
Engine Indication	MONITOR

Check ITT and N2 rising. Observe limits. Check ignition and fuel flow indication at 10% N2.

Windmilling Start:

Airspeed	ABOVE 260 KIAS
Minimum N2	12%
Start/Stop Selector	START, THEN RUN
ITT and N2	MONITOR

Note:—Windmilling start will be slower than an assisted start.

—Windmilling start with N2 above 30% and increasing, the loss of altitude may be minimized, by reducing airspeed.

—Start will be faster if ITT is below 320 °C.

After Start:

Affected Engine Bleed	AS REQUIRED
Crossbleed	AUTO
APU Bleed	AS REQUIRED''

Disconnection of the Precooler Differential Pressure Switches

(c) For airplanes identified in AD 2000–13–02, amendment 39–11801: Within 100 flight hours after July 3, 2000, disconnect the electrical connector from the precooler differential pressure switches in the left and right engine pylons, in accordance with EMBRAER Alert Service Bulletin 145–36–A018, dated April 14, 2000; or Change 01, dated October 20, 2000. Following accomplishment of this paragraph, the AFM revision required by paragraph (a) of this AD may be removed from the AFM.

New Requirements of This AD

Revision to AFM: Limitations Section

(d) For airplanes having serial numbers 145245, 145250 through 145255 inclusive, 145258 through 145262 inclusive, 145264 through 145324 inclusive, 145326, and 145327: Within 24 hours after the effective date of this AD, revise the Limitations section of the AFM to include the following statements (this may be accomplished by inserting a copy of this AD into the AFM; following accomplishment of paragraph (f) of this AD, the revisions required by this paragraph may be removed from the AFM):

''THE APU MUST BE OPERATIVE FOR EVERY DEPARTURE. SINGLE BLEED OPERATION IN ICING CONDITIONS IS PROHIBITED.''

Revision to AFM: Abnormal Procedures Section

(e) For airplanes having serial numbers 145245, 145250 through 145255 inclusive, 145258 through 145262 inclusive, 145264 through 145324 inclusive, 145326, and 145327: Within 24 hours after the effective date of this AD, replace the existing ''ENGINE AIRSTART'' procedure in the Abnormal Procedures section of the AFM with the following procedures (this may be accomplished by inserting a copy of this AD into the AFM):

''ENGINE AIRSTART

Affected engine:

One Electric Fuel Pump (A or B).	ON
Ignition	AUTO
Start/Stop Selector	STOP
Engine Bleed	CLOSE
Thrust Lever	IDLE
Airspeed and Altitude	REFER TO AIRSTART ENVELOPE

Perform an assisted start or windmilling, as required.

CAUTION: IN ICING CONDITIONS USE CROSSBLEED START ONLY, TO AVOID LOSS OF ANTI-ICE SYSTEM PERFORMANCE.

Assisted Start:

Crossbleed Start:

N2 (operating engine)	ABOVE 80%
Crossbleed	AUTO OR OPEN
Engine Bleed (operating engine).	OPEN
Start/Stop Selector	START, THEN RUN
Engine Indication	MONITOR

Check ITT and N2 rising. Observe limits. Check ignition and fuel flow indication at 10% N2.

APU bleed start:

APU	START
APU Bleed	OPEN
Crossbleed	AUTO
Engine Bleed (operating engine).	CLOSE
Start/Stop Selector	START, THEN RUN
Engine Indication	MONITOR

Check ITT and N2 rising. Observe limits. Check ignition and fuel flow indication at 10% N2.

Windmilling Start:

Airspeed	ABOVE 260 KIAS
Minimum N2	12%
Start/Stop Selector	START, THEN RUN
ITT and N2	MONITOR

Note:—Windmilling start will be slower than an assisted start.

—Windmilling start with N2 above 30% and increasing, the loss of altitude may be minimized, by reducing airspeed.

—Start will be faster if ITT is below 320 °C.

After Start:

Affected Engine Bleed	AS REQUIRED
Crossbleed	AUTO
APU Bleed	AS REQUIRED''

Inspection of Electrical Connectors and Follow-on Actions

(f) For airplanes having serial numbers 145245, 145250 through 145255 inclusive, 145258 through 145262 inclusive, 145264 through 145324 inclusive, 145326, and 145327: Within 100 flight hours after the effective date of this AD, perform a one-time general visual inspection to ensure that electrical connector P1904 located in the right pylon is insulated and disconnected from precooler differential pressure switch S0354, and to ensure that electrical connector P1904 or P2252 located in the left pylon is insulated and disconnected from precooler differential pressure switch S0355, per the Accomplishment Instructions of EMBRAER Alert Service Bulletin 145–36–A018, Change 01, dated October 20, 2000. Following accomplishment of paragraph (f)(1), (f)(2), or (f)(3) of this AD, as applicable, the AFM revision required by paragraph (d) of this AD may be removed from the AFM.

(1) If all connectors are disconnected and insulated, no further action is required by this paragraph.

(2) If any connector is connected to a precooler differential pressure switch, prior to further flight, disconnect and insulate the connector per the Accomplishment Instructions of the alert service bulletin.

(3) If any connector is disconnected from a precooler differential pressure switch, but is not insulated, prior to further flight, insulate the connector per the Accomplishment Instruction of the alert service bulletin.

Note 1: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

(g) Actions accomplished before the effective date of this AD, per the Accomplishment Instructions of EMBRAER Alert Service Bulletin 145–36-A018, dated April 14, 2000; or EMBRAER Service Bulletin 145–36–0018, dated November 5, 2002; are considered acceptable for compliance with the actions specified in paragraph (f) of this AD.

Alternative Methods of Compliance

(h) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM–116, FAA, is authorized to approve alternative methods of compliance for this AD.

Note 2: The subject of this AD is addressed in Brazilian airworthiness directive 2000–04–01R2, dated May 28, 2001.

Issued in Renton, Washington, on July 10, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–17951 Filed 7–15–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–SW–10–AD]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model AS355E, F, F1, F2, and N Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes superseding an existing airworthiness directive (AD) for the specified Eurocopter France (ECF) model helicopters. That AD currently requires certain checks of the magnetic chip detector plug (chip detector) and the main gearbox (MGB) oil-sight glass; certain inspections of the lubrication pump (pump), if necessary; replacing the MGB and the pump with an airworthy MGB and pump, if necessary; and a different MGB or pump with any time-in-service (TIS) must meet the AD requirements before being installed. This document proposes the same requirements but also proposes to correct the wording in the existing AD to state that the check of the chip detector is for sludge rather than metal particles. This proposal is prompted by the need to correct the wording to require that the check of the chip detector is for sludge rather than metal particles because the term ''metal particles'' is misleading. The actions specified by this AD are intended to detect sludge on the chip detector, to prevent failure of the MGB pump, seizure of the MGB, loss of drive to an engine and main rotor, and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before September 15, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2003–SW–10–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: *9-asw-adcomments@faa.gov.* Comments may be inspected at the Office of the Regional Counsel between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ed Cuevas, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Safety Management Group, Fort Worth, Texas 76193–0111, telephone (817) 222–5355, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this document may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this proposal must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 2003–SW–10–AD.'' The postcard will be date stamped and returned to the commenter.

Discussion

On October 17, 2002, the FAA issued Emergency AD 2002–21–51. That Emergency AD was published in the **Federal Register** as a final rule; request for comments on December 18, 2002 (67 FR 77401). That AD requires checking the chip detector for metal particles and the MGB oil-sight glass for dark oil; taking an oil sample if dark oil is observed; further inspection of the pump, if necessary; and replacing the MGB and the pump with an airworthy MGB and pump, if necessary. Also, that AD requires that a different MGB or pump with any TIS must meet the requirements of the AD before being installed. That AD was prompted by four reports of malfunction of the MGB pump. The bearings of the driven pinion inside the pump can deteriorate resulting in pump failure and loss of oil pressure in the MGB. The requirements of that AD are intended to prevent seizure of the MGB, loss of drive to an engine and main rotor, and subsequent loss of control of the helicopter.

Since issuing that AD, the FAA has learned that the meaning of the source information in the DGAC AD was inadvertently changed. The check of the chip detector should be for ''sludge'' rather than ''metal particles'' as required in the existing AD. The presence of metal particles on the chip detector is already addressed in the maintenance manuals. Operators should continue to follow the maintenance manual instructions when metal particles are present on the chip detector. Therefore, the proposed AD would supersede AD 2002–21–51 to replace the words ''metal particles'' with the word ''sludge'' and to define ''sludge.'' The term ''sludge'' is used to describe a deposit on the chip detector. This deposit may have both metallic and nonmetallic properties. It is typically dark in color and in the form of a film or paste, as compared to metal chips or particles normally found on the chip detector.

An owner/operator (pilot) may perform the visual checks for sludge on the chip detector and for dark oil in the

MGB oil-sight glass and must enter compliance with those requirements into the helicopter maintenance records in accordance with 14 CFR 43.11 and 91.417(a)(2)(v). A pilot may perform these checks because they only involve visual checks for sludge on the chip detector, which can be removed without the use of tools, and for dark oil in the MGB oil-sight glass and can be performed equally well by a pilot or a mechanic.

Also, since issuing that AD, ECF has issued a revised Alert Telex No. 05.00.40 R1, dated November 27, 2002, which in addition to the specifications of Alert Telex No. 05.00.40, dated June 6, 2002, gives operators the choice of having the pump, the MGB, and the main rotor mast examined by an ECF specialist. The Direction Generale De L'Aviation Civile (DGAC) classified Alert Telex 05.00.40 R1 as mandatory and issued a revised AD No. 2002–331–071(A) R1, dated January 22, 2003, to ensure the continued airworthiness of these helicopters in France. Therefore, we have updated this proposed AD to reference the more current service information.

On July 10, 2002, the FAA issued a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs FAA's AD system. This regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. Because we have now included this material in 14 CFR part 39, we no longer need to include it in each individual AD.

The FAA estimates that this AD will affect approximately 105 helicopters of U.S. registry. The FAA also estimates that it will take approximately 10 minutes to check the chip detector and the MGB oil sight glass, 4 work hours to remove the MGB and pump, 1 work hour to inspect the pump, and 4 work hours to install a serviceable MGB and pump. The average labor rate is $60 per work hour. Required parts will cost approximately $4000 for an overhauled pump and up to $60,000 for an overhauled MGB per helicopter. The manufacturer has represented to the FAA that the standard warranty applies if failure occurs within the first 2 years and operating time is less than 1000 hours. Based on these figures, the FAA estimates a total cost impact of the AD on U.S. operators to be $337,540 per year, assuming replacement of one MGB and pump on one helicopter per year and a daily check on all helicopters for 260 days per year.

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–12982 (67 FR 77401, December 18, 2002), and by adding a new airworthiness directive (AD), to read as follows:

Eurocopter France: Docket No. 2003–SW–10–AD. Supersedes AD 2002–21–51, Amendment 39–12982, Docket No. 2002–SW–48–AD.

Applicability: Model AS355E, F, F1, F2, and N helicopters, with a main gearbox (MGB) lubrication pump (pump), part number 355A32–0700–00, –01,–01M, installed, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the MGB pump, seizure of the MGB, loss of drive to an engine and main rotor, and subsequent loss of control of the helicopter, accomplish the following:

(a) Before the first flight of each day and at intervals not to exceed 10 hours time-in-service (TIS), check the MGB magnetic chip detector plug (chip detector) for any sludge. Also, check for dark oil in the MGB oil-sight glass. An owner/operator (pilot) holding at least a private pilot certificate may perform this visual check and must enter compliance into the aircraft maintenance records in accordance with 14 CFR 43.11 and 91.417(a)(2)(v). ''Sludge'' is a deposit on the chip detector that is typically dark in color and in the form of a film or paste, as compared to metal chips or particles normally found on a chip detector. Sludge may have both metallic or nonmetallic properties, may consist of copper (pinion bearing), magnesium (pump case), and steel (pinion) from the oil pump, and a nonmetallic substance from the chemical breakdown of the oil as it interacts with the metal.

Note 1: Eurocopter France Alert Telex No. 05.00.40 R1, dated November 27, 2002, pertains to the subject of this AD.

(b) Before further flight, if any sludge is found on the chip detector, inspect the pump.

(c) Before further flight, if the oil appears dark in color when it is observed through the MGB oil-sight glass, take an oil sample. If the oil taken in the sample is dark or dark purple, before further flight, inspect the pump.

(d) While inspecting the pump, if you find any of the following, replace the MGB and the pump with an airworthy MGB and pump before further flight:

(1) Crank pin play,

(2) Out of round bronze bushing (A of Figure 1),

(3) Offset of the driven gear pinion,

(4) Metal chips, or

(5) Wear (C of Figure 1).

See the following Figure 1:

BILLING CODE 4910–13–P

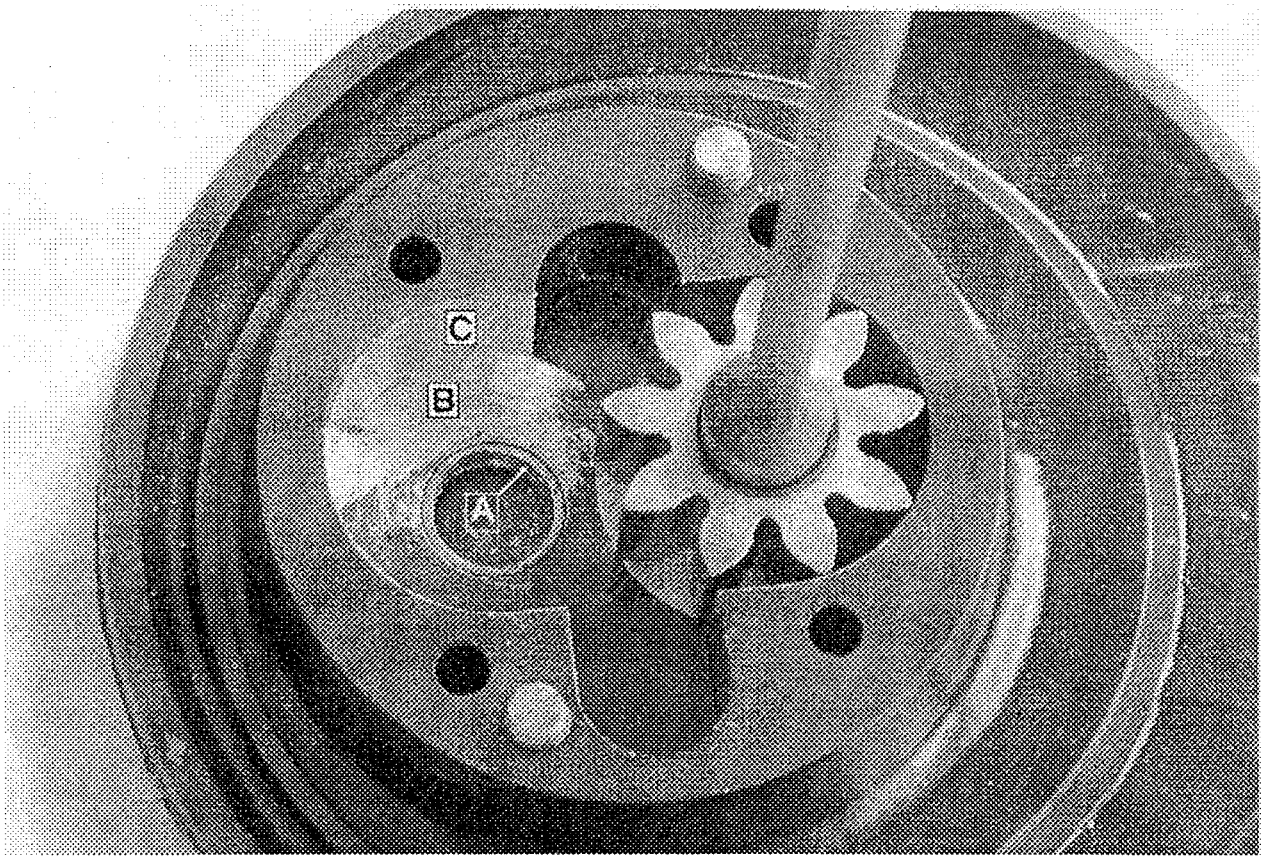

Figure 1

Note 2: If wear is present in the B area only as depicted in Figure 1, replacing the MGB and the pump is not required.

(e) Before installing a different MGB or a pump with any TIS, accomplish the requirements of paragraph (a) of this AD.

(f) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Safety Management Group, Rotocraft Directorate, FAA, for information about previously approved alternative methods of compliance.

Note 3: The subject of this AD is addressed in Direction Generale De L'Aviation Civile (France) AD 2002–331–071(A) R1, dated January 22, 2003.

Issued in Fort Worth, Texas, on July 1, 2003.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 03–17957 Filed 7–15–03; 8:45 am]

BILLING CODE 4910–13–C

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

[KY–244–FOR]

Kentucky Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of a proposed amendment to the Kentucky regulatory program (the ''Kentucky program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Kentucky proposes to transfer $3,000,000 from the Bond Pool Fund to the Commonwealth's General Fund for the 2002–2003 fiscal year.

This document gives the times and locations that the Kentucky program and proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments on this amendment until 4 p.m., e.s.t., August 15, 2003. If requested, we will hold a public hearing on the amendment on August 11, 2003. We will accept requests to speak until 4 p.m., e.s.t., on July 31, 2003.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to William J. Kovacic at the address listed below.

You may review copies of the Kentucky program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Lexington Field Office.

William J. Kovacic, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 2675 Regency Road, Lexington, Kentucky 40503, Telephone: (859) 260–8400. E-mail: *bkovacic@osmre.gov.*

Department for Surface Mining Reclamation and Enforcement 2 Hudson Hollow Complex, Frankfort, Kentucky 40601, Telephone: (502) 564–6940.

FOR FURTHER INFORMATION CONTACT: William J. Kovacic, Telephone: (859) 260–8400. Internet: *bkovacic@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Kentucky Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act. *See* 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Kentucky program on May 18, 1982. You can find background information on the Kentucky program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Kentucky program in the May 18, 1982, **Federal Register** (47 FR 21434). You can also find later actions concerning Kentucky's program and program amendments at 30 CFR 917.11, 917.12, 917.13, 917.15, 917.16, and 917.17.

II. Description of the Proposed Amendment

By letter dated May 22, 2003, Kentucky sent us a proposed amendment to its program ([KY–244], administrative record No. KY–1580) under SMCRA (30 U.S.C. 1201 *et seq.*). Kentucky submitted a portion of House Bill 269, the executive branch budget bill, promulgated by the 2003 Kentucky General Assembly.

Specifically, Kentucky proposes to transfer $3,000,000 from the Bond Pool Fund established in Kentucky Revised Statute 350.700 to the Commonwealth's General Fund for the 2002–2003 fiscal year. The transfer appears on page 225, line 21 and is listed under Part V, Section J, item 5 of House Bill 269. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES.**

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the program.

Written Comments

Send your written comments to OSM at the address given above. Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. In the final rulemaking, we will not necessarily consider or include in the administrative record any comments received after the time indicated under **DATES** or at locations other than the Lexington Field Office.

Electronic Comments

Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include ''Attn: SATS No. KY–244'' and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Lexington Field Office at (859) 260–8400.

Availability of Comments

We will make comments, including names and addresses of respondents, available for public review during normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their

request to the extent allowable by law. Individual respondents who wish to withhold their name or address from public review, except for the city or town, must state this prominently at the beginning of their comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public review in their entirety.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., .e.s.t. on July 31, 2003. If you are disabled and need special accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT.** We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold the hearing. To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at a public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard. If you are disabled and need a special accommodation to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES.** We will make a written summary of each meeting a part of the administrative record.

IV. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowable by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA. Section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally-recognized Indian tribes and have determined that the rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. The basis for this determination is that our decision is on a State regulatory program and does not involve a Federal program involving Indian Tribes.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed State regulatory program provision does not constitute a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C.804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, geographic regions, or Federal, State or local governmental agencies; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 917

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 5, 2003.

Brent Wahlquist,

Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 03–17967 Filed 7–15–03; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–03–233]

RIN 1625–AA00

Safety Zone; Head of the Cuyahoga Regatta, Cleveland, OH

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a safety zone for the annual Head of the Cuyahoga Regatta in Cleveland, Ohio. This safety zone is necessary to control vessel traffic within the immediate location of the regatta and to ensure the safety of life and property during the event. This safety zone is intended to restrict vessel traffic from a portion of the Cuyahoga River.

DATES: Comments and related material must reach the Coast Guard on or before August 15, 2003.

ADDRESSES: You may mail comments and related material to Coast Guard Marine Safety Office Cleveland (CGD09–03–233), 1055 East Ninth Street, Cleveland, Ohio 44114. Marine Safety Office Cleveland maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and available for inspection or copying at Coast Guard MSO Cleveland between 8 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Allen Turner, U.S. Coast Guard Marine Safety Office Cleveland, at (216) 937–0128.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD09–03–233), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please include a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not plan to hold a public meeting. But you may submit a request for a meeting by writing to Coast Guard MSO Cleveland at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Head of the Cuyahoga Regatta will take place annually on the Cuyahoga River. A permanent safety zone will be established on the Cuyahoga River to protect competitors and course markings from recreational and commercial vessels, and to prevent interference with the competition. The safety zone will only be activated during the regatta.

Discussion of Proposed Rule

The safety zone will be activated annually on the third Saturday of September from 8 a.m. until 5 p.m. The safety zone will encompass the Cuyahoga River from Collision Bend down river to the mouth of the confluence with the Old River. In order to minimize the impact on commercial waterway users, commercial vessels will be allowed to transit the safety zone between the hours of 11 a.m. and 1 p.m. Recreational vessels will be allowed to transit the safety zone during the regatta with an escort by the event sponsor or the Coast Guard.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed this rule under that Order. It is not significant under the regulatory policies and procedures of the Department of Homeland Security. We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under of the regulatory policies and procedures of DHS is unnecessary.

This determination is based on the short amount of time that vessels will be restricted from the zones, and the actual location of the safety zones within the waterways.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

This proposed rule would affect the following entities, some of which might be small entities: The owners or operators of commercial vessels intending to transit a portion of the activated safety zone.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons: The proposed zone is only in effect for a few hours on

the day of the event and there is a substantial break during the event to allow commercial vessel transits. Recreational vessels can safely pass through the proposed safety zones during the event under sponsor or Coast Guard escort. Before the activation of the safety zone, the Coast Guard will issue maritime advisories available to users who may be impacted through notification in the **Federal Register**, the Ninth Coast Guard District Local Notice to Mariners, and through Marine Information Broadcasts. Additionally, the Coast Guard has not received any reports from small entities negatively affected during previous events.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Marine Safety Office Cleveland (see **ADDRESSES**).

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this proposed rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

The Coast Guard has analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

The Coast Guard has analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that Order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this proposed rule under Commandant Instruction M16475.1C, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of categorical exclusion under Section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded under Figure 2–1, paragraph 35(a) of the Instruction, from further environmental documentation. A written categorical exclusion determination is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.920 to read as follows:

§ 165.920 Safety Zone; Head of the Cuyahoga Regatta, Cleveland, OH

(a) *Location.* The following area is a safety zone: All navigable waters of the Cuyahoga River between the positions 41°29′19″ N, 081°42′30″ W (Collision Bend) and 41°29′55″ N, 081°42′24″ W (confluence with the Old River). These coordinates are based upon North American Datum (NAD 1983).

(b) *Enforcement period.* This section will be enforced annually on the third Saturday of September from 8 a.m. until 5 p.m.

(c) *Regulations.* No vessel shall enter, transit through, or anchor within this Safety Zone unless authorized by the Captain of the Port, Cleveland or his designated on-scene representative. Commercial vessels may transit through the safety zone from 11 a.m. until 1 p.m. Recreational vessels may transit the safety zone during the event under escort by the event sponsor or the Coast Guard. Permission to deviate from the above rules must be obtained from the Captain of the Port or the Patrol Commander via VHF/FM radio, Channel 16 or by telephone at (216) 937–0111. All persons must comply with the instructions of the Captain of the Port or his or her designated representative.

Dated: June 30, 2003.

Lorne W. Thomas,

Commander, Coast Guard, Captain of the Port Cleveland.

[FR Doc. 03–17908 Filed 7–15–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD01–03–066]

RIN 1625–AE84

Regulated Navigation Area; Arthur Kill, NY and NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a Regulated Navigation Area (RNA) to impose restrictions on vessels transiting to the North of Shooters Island Reach, Elizabethport Reach, and Gulfport Reach of the Arthur Kill during U.S. Army Corps of Engineers dredging operations in those areas. This action is necessary to provide for the safety of life and property on navigable waters during Army Corps of Engineers and Port Authority of New York/New Jersey dredging operations that impinge upon the navigable portion of the channel and require the temporary relocation of navigational aids. This action is intended to reduce the risks of collisions, groundings and other navigational mishaps.

DATES: Comments and related material must reach the Coast Guard on or before August 15, 2003.

ADDRESSES: You may mail comments and related material to Waterways Oversight Branch (CGD01–03–066), Coast Guard Activities New York, 212 Coast Guard Drive, room 204, Staten Island, New York 10305. The Waterways Oversight Branch of Coast Guard Activities New York maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room 204, Coast Guard Activities New York, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander E. Morton, Waterways Oversight Branch, Coast Guard Activities New York at (718) 354–4012.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD01–03–066), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the Waterways Oversight Branch at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Arthur Kill Channel is the proposed area to be designated as an RNA. This channel is located in the waters between Elizabeth, NJ and Staten Island, NY. The proposed RNA would enhance vessel safety during the extensive channel-deepening project being undertaken by the U.S. Army Corps of Engineers, which involves dredging and blasting in these areas. Current channel depths restrict the full economy of existing and future generations of deep draft vessels. Tankships arriving in the port with drafts approaching the 45 foot controlling depths of Ambrose and Anchorage Channels must lighter some of their cargo to barges in the deep New York Harbor Anchorage Grounds in order to safely transit the 35 foot Arthur Kill. This results in substantial lightering and delay costs.

Container vessels cannot lighter in the Anchorage Grounds and therefore must load to less than full drafts. This project, which is expected to last approximately five years, will deepen the existing 35-foot channels to 41 feet to accommodate deeper draft vessels. The dredging areas will continue to be available for use by the general public.

Proposed restrictions on vessel transits during this project are as follows: (1) No vessel shall enter or transit any work area where drill barges and/or dredges are located without permission of Vessel Traffic Service New York (VTSNY). One-way traffic will be maintained during this project in the active work areas. Permission to transit the work area will normally not be given during blasting operations.

(2) Each vessel transiting in the vicinity of the work areas, where drill barges and/or dredges are located, is required to do so at ''no wake'' speed.

(3) No vessel shall enter the RNA when they are advised by the drilling barge or VTSNY that a misfire or hangfire has occurred. Vessels already underway in the RNA shall proceed to clear the impacted area immediately.

(4) Vessel Movement Reporting System users are prohibited from meeting or overtaking other vessels when transiting alongside an active work area.

(5) Vessel Movement Reporting System users transiting with the prevailing current (as measured from the Bergen Point current station) are regarded as the stand-on vessel.

(6) Prior to entering the RNA, the master, pilot or operator of each Vessel Movement Reporting System user shall ensure that they have sufficient propulsion and directional control to safely navigate the area under the prevailing conditions, and shall notify VTSNY as to their decision regarding the employment of assist tugs while transiting the RNA.

(7) Waiver. The Captain of the Port New York may, upon request, authorize a deviation from any regulation in this section if it is found that the proposed operations can be done safely. An application for deviation must be received not less than 24 hours before the intended operation and must state the need and describe the proposal.

(8) Tugs with tows includes a tug with a vessel or barge in tow, alongside, or being pushed.

(9) Tug requirements. All vessels 350 feet in length, or greater, excluding tugs with tows, require one assist tug. All vessels 700 feet in length, or greater, excluding tugs with tows, require a minimum of two assist tugs. All vessels 900 feet in length, or greater, excluding tugs with tows, require a minimum of three assist tugs.

(10) Tidal current restrictions. Vessels 700 feet in length, or greater, are restricted to movements within one hour before or after slack water, as measured from the Bergen Point current station.

(11) Astern tows. Hawser tows are not permitted unless an assist tug accompanies the tow.

(12) When sustained winds are greater than 20 knots, as measured at the Bayonne Bridge meteorological sensor, vessels are prohibited from backing out of the Howland Hook Marine Terminal.

(13) Sustained winds from 20 to 34 knots. In sustained winds from 20 to 34 knots: (i) Cargo ships and tankers in ballast may not transit the RNA; (ii) tugs pushing or towing alongside tank barges 350 feet in length, or greater, in light condition, require an assist tug in the RNA.

(14) Sustained winds greater than 34 knots. In sustained winds greater than 34 knots, vessels 300 gross tons or greater and all tugs with tows are prohibited from transiting the RNA.

(15) When visibility is less than one nautical mile the entire work zone is closed to vessels over 350 feet in length and all tugs with tows.

(16) The Vessel Traffic Service New York Director may impose additional requirements through VTS measures, as per 33 CFR 161.11, when the dredge is working in the most restricted areas of the waterway.

This proposed rulemaking is needed to reduce the risks of collisions, groundings, and other navigational mishaps associated with this project. These proposed restrictions are similar to those currently in place to the east of the proposed RNA for the ongoing Kill Van Kull RNA codified at 33 CFR 165.165. They were originally instituted during 1991–1992 when dredging was last conducted in this vicinity. They were instituted at that time in response to three groundings that resulted in one oil spill and one channel blockage.

Public notifications for specific dredging dates and dredging areas within the RNA will be made prior to the commencement of dredging via the Local Notice to Mariners, marine information and facsimile broadcasts, at New York Harbor Operations Committee meetings and on the internet at: *http://www.harborops.com*.

The proposed regulation would become effective on Monday, September 1, 2003.

Discussion of Proposed Rule

The proposed RNA encompasses all waters of the North of Shooters Island Reach, Elizabethport Reach, and Gulfport Reach in the Arthur Kill. This proposed rule is necessary to safeguard marine traffic from the dangers of the dredging and blasting work proposed in the project area.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

This finding is based on the following reasons: Vessels will be allowed to transit work areas where dredges and/or drill barges are located unless blasting is to be conducted; delays resulting from blasting are expected to last no longer than 15 minutes and occur less than 7 times daily in any one area; there are no restrictions on vessel traffic in the RNA in areas where there are no dredges or drill barges; the Port Authority of New York/New Jersey is working with the Army Corps of Engineers on this project to ensure future generations of deep draft vessels are able to use the Port of NY/NJ; it will reduce substantial costs associated with lightering operations currently required by vessels unable to transit the harbor fully loaded, and advance notifications will be made to the local maritime community by the Local Notice to Mariners, marine information and facsimile broadcast, at New York Harbor Operations Committee meetings and on the internet at *http://www.harborops.com.*

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

This proposed rule would affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit a portion of the North of Shooters Island Reach, Elizabethport Reach, or Gulfport Reach of the Arthur Kill during the time this RNA is effective.

This RNA would not have a significant economic impact on a substantial number of small entities for the following reasons: Vessels will be allowed to transit work areas where dredges and/or drill barges are located unless blasting is to be conducted; delays resulting from blasting are expected to last no longer than 15 minutes and occur less than 7 times daily in any one area; there are no restrictions on vessel traffic in the RNA in areas where there are no dredges or drill barges; the Port Authority of New York/New Jersey is working with the Army Corps of Engineers on this project to ensure future generations of deep draft vessels are able to use the Port of NY/NJ; and it will reduce substantial costs associated with lightering operations currently required by vessels unable to transit the harbor fully loaded. Before the effective date we will ensure wide dissemination of maritime advisories widely available to users of the Arthur Kill by the Local Notice to Mariners, marine information and facsimile broadcast, at New York Harbor Operations Committee meetings, and on the internet at *http://www.harborops.com.*

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant Commander E. Morton, Waterways Oversight Branch, Coast Guard Activities New York at (718) 354–4012.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and

would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that Order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation. This proposed rule fits paragraph 34(g) as it establishes a Regulated Navigation Area. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.171 to read as follows:

§ 165.171 Regulated Navigation Area; Arthur Kill, NY and NJ.

(a) *Regulated Navigation Area.* The following area is a Regulated Navigation Area: All waters of the North of Shooters Island Reach, Elizabethport Reach, and Gulfport Reach in the Arthur Kill.

(b) *Enforcement period.* This section will be enforced from 8 a.m. on Monday, September 1, 2003 until the dredging project is completed.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene-patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U. S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

(3) No vessel shall enter or transit any work area where drill barges and/or dredges are located without permission of Vessel Traffic Service New York (VTSNY). One-way traffic will be maintained during this project in the active work areas. Permission to transit the work area will normally not be given during blasting operations.

(4) Each vessel transiting in the vicinity of the work areas, where drill barges and/or dredges are located, is required to do so at ''no wake'' speed.

(5) No vessel shall enter the RNA when they are advised by the drilling barge or VTSNY that a misfire or hangfire has occurred. Vessels already underway in the RNA shall proceed to clear the impacted area immediately.

(6) Vessel Movement Reporting System users are prohibited from meeting or overtaking other vessels when transiting alongside an active work area.

(7) Vessel Movement Reporting System users transiting with the prevailing current (as measured from the Bergen Point current station) are regarded as the stand-on vessel.

(8) Prior to entering the RNA, the master, pilot or operator of each Vessel Movement Reporting System user shall ensure that they have sufficient propulsion and directional control to safely navigate the area under the prevailing conditions, and shall notify VTSNY as to their decision regarding the employment of assist tugs while transiting the RNA.

(9) *Waiver.* The Captain of the Port New York may, upon request, authorize a deviation from any regulation in this section if it is found that the proposed operations can be done safely. An application for deviation must be received not less than 24 hours before the intended operation and must state the need and describe the proposal.

(10) Tugs with tows includes a tug with a vessel or barge in tow, alongside, or being pushed.

(11) *Tug requirements.* All vessels 350 feet in length, or greater, excluding tugs with tows, require one assist tug. All vessels 700 feet in length, or greater, excluding tugs with tows, require a minimum of two assist tugs. All vessels 900 feet in length, or greater, excluding tugs with tows, require a minimum of three assist tugs.

(12) *Tidal current restrictions.* Vessels 700 feet in length, or greater, are restricted to movements within one

hour before or after slack water, as measured from the Bergen Point current station.

(13) *Astern tows.* Hawser tows are not permitted unless an assist tug accompanies the tow.

(14) When sustained winds are greater than 20 knots, as measured at the Bayonne Bridge meteorological sensor, vessels are prohibited from backing out of the Howland Hook Marine Terminal.

(15) *Sustained winds from 20 to 34 knots.* In sustained winds from 20 to 34 knots:

(i) Cargo ships and tankers in ballast may not transit the RNA;

(ii) Tugs pushing or towing alongside tank barges 350 feet in length, or greater, in light condition, require an assist tug in the RNA.

(16) *Sustained winds greater than 34 knots.* In sustained winds greater than 34 knots, vessels 300 gross tons or greater and all tugs with tows are prohibited from transiting the RNA.

(17) When visibility is less than one nautical mile the entire work zone is closed to vessels over 350 feet in length and all tugs with tows.

(18) The Vessel Traffic Service New York Director may impose additional requirements through VTS measures, as per 33 CFR 161.11, when the dredge is working in the most restricted areas of the waterway.

Dated: July 9, 2003.

John L. Grenier,

Captain, Coast Guard, Acting Commander, First Coast Guard District.

[FR Doc. 03–17906 Filed 7–15–03; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region 2 Docket No. NY61–259, FRL–7528–5]

Approval and Promulgation of Implementation Plans; New York State Implementation Plan Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the New York State Implementation Plan (SIP) for ozone concerning the control of volatile organic compounds. The SIP revision consists of amendments to New York Codes, Rules and Regulations, Part 228, ''Surface Coating Processes.'' This SIP revision consists of a control measure needed to meet the shortfall emissions reduction identified by EPA in New York's 1-hour ozone attainment demonstration SIP. The intended effect of this action is to approve a control strategy required by New York's SIP which will result in emission reductions that will help achieve attainment of the national ambient air quality standard for ozone.

DATES: Comments must be received on or before August 15, 2003.

ADDRESSES: Comments may be submitted either by mail or electronically. Written comments should be mailed to Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866. Electronic comments could be sent either to *Werner.Raymond@epa.gov* or to *http://www.regulations.gov*, which is an alternative method for submitting electronic comments to EPA. Go directly to *http://www.regulations.gov*, then select ''Environmental Protection Agency'' at the top of the page and use the ''go'' button. Please follow the on-line instructions for submitting comments.

A copy of the New York's submittal is available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866.

New York State Department of Environmental Conservation, Division of Air Resources, 625 Broadway, Albany, New York 12233.

FOR FURTHER INFORMATION CONTACT: Kirk J. Wieber, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–3381 or *Wieber.Kirk@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What Is Required by the Clean Air Act and How Does It Apply to New York?

Section 182 of the Clean Air Act (Act) specifies the required State Implementation Plan (SIP) submissions and requirements for areas classified as nonattainment for ozone and when these submissions and requirements are to be submitted to EPA by the states. The specific requirements vary depending upon the severity of the ozone problem. The New York—Northern New Jersey—Long Island area is classified as a severe ozone nonattainment area. Under section 182, severe ozone nonattainment areas were required to submit demonstrations of how they would attain the 1-hour standard. On December 16, 1999 (64 FR 70364), EPA proposed approval of New York's 1-hour ozone attainment demonstration SIP for the New York—Northern New Jersey—Long Island nonattainment area. In that rulemaking, EPA identified an emission reduction shortfall associated with New York's 1-hour ozone attainment demonstration SIP, and required New York to address the shortfall. In a related matter, the Ozone Transport Commission (OTC) developed six model rules which provided control measures for a number of source categories and estimated emission reduction benefits from implementing these model rules. These model rules were designed for use by states in developing their own regulations to achieve additional emission reductions to close emission shortfalls.

On February 4, 2002 (67 FR 5170), EPA approved New York's 1-hour ozone attainment demonstration SIP. This approval included an enforceable commitment submitted by New York to adopt additional control measures to close the shortfall identified by EPA for attainment of the 1-hour ozone standard.

II. What Was Included in New York's Submittal?

On April 30, 2003, Carl Johnson, Deputy Commissioner, New York State Department of Environmental Conservation (NYSDEC), submitted to EPA a revision to the SIP which included state-proposed revisions to NYCRR, Part 228, ''Surface Coating Processes.'' The proposed revisions to Part 228 will provide volatile organic compound (VOC) emission reductions to address, in part, the shortfall identified by EPA. New York used the OTC model rule as a guideline to develop Part 228.

A. What Do the Revisions to Part 228, ''Surface Coating Processes'' Consist Of?

The majority of the proposed revisions to part 228 pertain to mobile equipment repair and refinishing (MERR) requirements, including VOC content limits for several MERR coating lines. The proposed revisions to part 228 establish that, beginning January 1, 2005, a person may not apply to mobile equipment or mobile equipment components any automotive pretreatment primer, automotive primer-surfacer, automotive primer-sealer, automotive topcoat or automotive specialty coatings that contain VOCs in excess of the VOC

content limits specified by New York for those products.

In addition, the proposed revisions to part 228 establish that, beginning January 1, 2001, a person at a facility subject to the MERR provisions of Part 228 must use one or more of the following application techniques to apply MERR or color-matching coatings: flow/curtain coating; dip coating; cotton-tipped swab application; electro-deposition coating; high-volume, low-pressure spraying; electrostatic spray; airless spray; and other coating application methods approved by the NYSDEC which can achieve emission reductions equivalent to high-volume, low-pressure spray or electrostatic spray application methods.

The proposed revisions to part 228 also include clarifications to definitions; permit requirements; exemptions; VOC emission control requirements; test methods, including capture efficiency test protocols and test methods; equipment cleaning specifications; and recordkeeping requirements.

III. What Is EPA's Conclusion?

EPA has evaluated New York's submittal for consistency with the Act, EPA regulations, and EPA policy. EPA has determined that the proposed revisions made to part 228, entitled, ''Surface Coating Processes'' meet the SIP revision requirements of the Act.

In addition, the proposed revisions to part 228, ''Surface Coating Processes'' are being processed under a procedure called parallel processing, whereby EPA proposes rulemaking action concurrent with the state's procedures for amending its regulations. If the proposed revisions to part 228 are substantially different than those identified in this document, EPA will evaluate those changes and may publish another notice of proposed rulemaking. If no substantial changes are made to part 228 as cited in this document, EPA will publish a final rulemaking on the revisions. The final rulemaking action by EPA will occur only after the SIP revision has been adopted by New York and submitted formally to EPA for incorporation into the SIP.

IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Act. This proposed rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Act. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: July 1, 2003.

Jane M. Kenny,

Regional Administrator, Region 2.

[FR Doc. 03–18003 Filed 7–15–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 136

[FRL–7527–8]

RIN 2040–AD53

Guidelines Establishing Test Procedures for the Analysis of Pollutants; Procedures for Detection and Quantitation; Reopening of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and Notice of Document Availability; reopening of comment period.

SUMMARY: The U.S. Environmental Protection Agency is reopening the comment period for the proposed rule and the notice of document availability (NODA) regarding EPA's assessment of detection and quantitation procedures. The proposed rule and the NODA were published in the **Federal Register** on March 12, 2003 (68 FR 11770 and 68 FR 11791, respectively), and the comment periods for both were scheduled to end on July 10, 2003. The Agency is reopening the comment periods for 30 days, and they will now end on August 15, 2003.

DATES: Comments must be postmarked, delivered by hand, or electronically mailed on or before August 15, 2003. Comments provided electronically will be considered timely if they are submitted by 11:59 p.m. Eastern Time on August 15, 2003.

ADDRESSES: Comments may be submitted by mail to Water Docket, U.S. Environmental Protection Agency (4101T), 1200 Pennsylvania Avenue, NW., Washington, DC, 20460, or electronically through EPA Dockets at *http://www.epa.gov/edocket/,* Attention

Docket No. OW–2003–0002. See Unit C of the **SUPPLEMENTARY INFORMATION** section of the March 12, 2003, **Federal Register** notice for the proposed rule (68 FR 11771–11772) and Unit I.B of the **SUPPLEMENTARY INFORMATION** section of the March 12, 2003, **Federal Register** notice for the NODA (68 FR 11791–11792) for additional ways to submit comments and more detailed instructions.

FOR FURTHER INFORMATION CONTACT: William Telliard; Engineering and Analysis Division (4303T); Office of Science and Technology; Office of Water; U.S. Environmental Protection Agency; Ariel Rios Building; 1200 Pennsylvania Avenue, NW.; Washington, DC 20460, or call (202) 566–1061 or E-mail at *telliard.william@epa.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

EPA's method detection limit (MDL) and minimum level of quantitation (ML) are used to define analytical method (test) sensitivity under the Clean Water Act (CWA). In February 2003, EPA's Office of Water completed an assessment of detection and quantitation concepts and their application under CWA programs. On March 12, 2003, EPA published a document (68 FR 11791) making available for public comment an assessment document entitled ''Technical Support Document for the Assessment of Detection and Quantitation Concepts'' (EPA 821–R–03–005, February 2003). On the same date, EPA also published proposed revisions to the current EPA procedure for determining test sensitivity under EPA's CWA programs (available at 40 CFR part 136, appendix B) (68 FR 11770). The proposed revisions include clarifications and improvements based on the assessment of the MDL, ML, and other approaches for defining test sensitivity; peer review of the assessment; and stakeholder comments on the existing MDL procedure.

The 120-day public comment periods established for the proposed rule and NODA were scheduled to end July 10, 2003. EPA received a request to extend the public comment for the proposed rule period beyond that due date.

In order to give the public enough time to review and comment on the proposed rule, EPA is reopening the comment period for an additional 30 days to August 15, 2003, for each of those documents.

B. Reopening of Comment Period

This document reopens the public comment periods established in the **Federal Register** issued on March 12, 2003 (68 FR 11770 and 68 FR 11791). In those documents, EPA requested public comments on the Agency's proposed rule and on the assessment document entitled ''Technical Support Document for the Assessment of Detection and Quantitation Concepts'' (EPA 821–R–03–005, February, 2003). EPA is hereby reopening the comment periods to August 15, 2003.

To submit comments, or access the official public docket, please follow the detailed instructions as provided in the **SUPPLEMENTARY INFORMATION** sections of the March 12, 2003 **Federal Register** actions for the proposed rule (68 FR 11771–11772) and the NODA (68 FR 11791–11792). If you have questions, consult the person listed under the **FOR FURTHER INFORMATION CONTACT** section of this action.

Dated: July 9, 2003.

G. Tracy Mehan, III,

Assistant Administrator for Water.

[FR Doc. 03–17875 Filed 7–15–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2003–0092; FRL–7301–5]

Aldicarb, Atrazine, Cacodylic acid, Carbofuran, et al.; Proposed Tolerance Actions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes to revoke specific meat, milk, poultry, and egg tolerances for residues of the insecticides aldicarb, carbofuran, diazinon, and dimethoate; herbicides atrazine, metolachlor, and sodium acifluorfen; fungicides fenarimol, propiconazole, and thiophanate-methyl; and the defoliant cacodylic acid. EPA determined that there are no reasonable expectations of finite residues in or on meat, milk, poultry, or eggs for the aforementioned pesticide active ingredients and that these tolerances are no longer needed. Also, this document proposes to modify specific fenarimol tolerances. The regulatory actions proposed in this document contribute toward the Agency's tolerance reassessment requirements of the Federal Food, Drug, and Cosmetic Act (FFDCA) section 408(q), as amended by the Food Quality Protection Act (FQPA) of 1996. By law, EPA is required by August 2006 to reassess the tolerances in existence on August 2, 1996. Because all the tolerances were previously reassessed, no reassessments are counted here toward the August 2006 review deadline.

DATES: Comments, identified by docket ID number OPP–2003–0092, must be received on or before September 15, 2003.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Joseph Nevola, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8037; e-mail address: *nevola.joseph@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS 111)
- Animal production (NAICS 112)
- Food manufacturing (NAICS 311)
- Pesticide manufacturing (NAICS 32532)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in Unit II.A. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action

under docket identification (ID) number OPP–2003–0092. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*. A frequently updated electronic version of 40 CFR part 180 is available at *http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html*, a beta site currently under development.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the Docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and To Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically*. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket*, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPP–2003–0092. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to *opp-docket@epa.gov*, Attention: Docket ID Number OPP–2003–0092. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number OPP–2003–0092.

3. *By hand delivery or courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson

Davis Hwy., Arlington, VA, Attention: Docket ID Number OPP–2003–0092. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the proposed rule or collection activity.
7. Make sure to submit your comments by the deadline in this document.
8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

F. What Can I do if I Wish the Agency to Maintain a Tolerance that the Agency Proposes to Revoke?

This proposed rule provides a comment period of 60 days for any person to state an interest in retaining a tolerance proposed for revocation. If EPA receives a comment within the 60–day period to that effect, EPA will not proceed to revoke the tolerance immediately. However, EPA will take steps to ensure the submission of any needed supporting data and will issue an order in the **Federal Register** under FFDCA section 408(f) if needed. The order would specify data needed and the time frames for its submission, and would require that within 90 days some person or persons notify EPA that they will submit the data. If the data are not submitted as required in the order, EPA will take appropriate action under FFDCA.

EPA issues a final rule after considering comments that are submitted in response to this proposed rule. In addition to submitting comments in response to this proposal, you may also submit an objection at the time of the final rule. If you fail to file an objection to the final rule within the time period specified, you will have waived the right to raise any issues resolved in the final rule. After the specified time, issues resolved in the final rule cannot be raised again in any subsequent proceedings.

II. Background

A. What Action is the Agency Taking?

EPA is proposing to revoke specific meat, milk, poultry, and egg tolerances for residues of the insecticides aldicarb, carbofuran, diazinon, and dimethoate; herbicides atrazine, metolachlor, and sodium acifluorfen; fungicides fenarimol, propiconazole, and thiophanate-methyl; and the defoliant cacodylic acid because the Agency has concluded that there is no reasonable expectation of finite residues in or on the commodities associated with those tolerances, and therefore these tolerances are no longer needed. Also, EPA is proposing to modify specific fenarimol tolerances.

The determinations that there are no reasonable expectations of finite residues for the tolerances listed in this document were made based on feeding studies submitted since the time that the tolerances were originally established. These feeding studies used exaggerated amounts of the compound and did not show measurable residues of the pesticides tested. The Agency originally made the determination that there is no reasonable expectation of finite residues for the pesticide active ingredient/commodity combinations listed in this proposal in memoranda of March 6, 2002; March 25, 2002; April 21, 2002; July 1, 2002; and July 23, 2002. Because there was no expectation of finite residues, in subsequent memoranda of May 3, 2002; June 3, 2002; July 11, 2002; and July 23, 2002, the Agency declared these tolerances as safe and counted these tolerances toward meeting the tolerance reassessment requirements listed in FFDCA section 408(q). Copies of these memoranda can be found in the public docket for this proposed rule. Because EPA determined that there is no reasonable expectation of finite residues, under 40 CFR 180.6 the tolerances are no longer needed under the FFDCA and can be proposed for revocation.

1. *Aldicarb.* Based on available ruminant feeding and storage stability data, EPA determined that there is no reasonable expectation of finite residues of aldicarb and its carbamate metabolites in milk and livestock commodities. The associated tolerances are no longer needed under 40 CFR 180.6(a)(3). Therefore, EPA is proposing to revoke the tolerances in 40 CFR 180.269 for the combined residues of the insecticide and nematocide aldicarb (2-methyl-2-(methylthio)propionaldehyde O-(methylcarbamoyl) oxime and its cholinesterase-inhibiting metabolites 2-methyl 2-(methylsulfinyl) propionaldehyde O-(methylcarbamoyl) oxime and 2-methyl-2- (methylsulfonyl) propionaldehyde O-(methylcarbamoyl) oxime in or on the following: cattle, fat; cattle, meat; cattle meat byproducts; goat, fat; goat, meat; goat, meat byproducts; hog, fat; hog, meat; hog, meat byproducts; horse, fat; horse, meat; horse, meat byproducts; and sheep, fat; sheep, meat; sheep, meat byproducts; and milk.

2. *Atrazine.* Based on available ruminant and poultry feeding data, EPA determined that there is no reasonable expectation of finite residues of atrazine in fat, meat, and meat byproducts of hogs and poultry; and eggs. These tolerances are no longer needed under 40 CFR 180.6(a)(3). Therefore, EPA is proposing to revoke the tolerances in 40 CFR 180.220 for residues of the herbicide atrazine in or on hog, fat; hog, meat; hog, meat byproducts; poultry, fat; poultry, meat; poultry, meat byproducts; and egg.

3. *Cacodylic acid (dimethylarsinic acid).* Arsenic is ubiquitous and abundant in the environment. Studies show that arsenicals are methylated in animals to potentially significant levels of dimethyl arsonate. Also, available

data show that background levels of dimethyl arsonate (cacodylate) found in beef tissues and milk may substantially exceed those incurred from the maximum theoretical dietary burden from ingestion of feed stuffs derived from raw agricultural commodities treated with cacodylic acid at the maximum supported use rates. Based on all these data, EPA determined that tolerances for residues of cacodylic acid in beef tissues and milk are no longer needed under 40 CFR 180.6(a)(3). Therefore, EPA is proposing to revoke the tolerances in 40 CFR 180.311 for residues of the defoliant cacodylic acid (dimethylarsinic acid), expressed as As2 O3, in or on cattle, fat; cattle, kidney; cattle, liver; cattle, meat; and cattle meat byproducts (except kidney and liver).

Furthermore, in order to conform to current Agency practice, in 40 CFR 180.311, EPA is proposing to revise the tolerance commodity terminology for ''cottonseed'' to ''cotton, undelinted seed.''

4. *Carbofuran*. Based on available dairy cattle feeding data, EPA determined that there is no reasonable expectation of finite residues of carbofuran and its metabolites in fat, meat, and meat byproducts of cattle, goats, hogs, horses and sheep. These tolerances are no longer needed under 40 CFR 180.6(a)(3). Therefore, EPA is proposing to revoke the tolerances in 40 CFR 180.254 for the combined residues of the insecticide carbofuran (2,3-dihydro-2,2-dimethyl-7-benzofuranyl-N-methylcarbamate), its carbamate metabolite 2,3-dihydro-2,2-dimethyl-3-hydroxy-7-benzofuranyl-N-methylcarbamate, and its phenolic metabolites 2,3-dihydro-2, 2-dimethyl-7-benzofuranol, 2,3-dihydro-2,2-dimethyl-3,-oxo-7-benzofuranol and 2,3-dihydro-2,2-dimethyl-3,7-benzofurandiol in or on the following commodities: Cattle, fat; cattle, meat; cattle meat byproducts; goats, fat; goats, meat; goats, meat byproducts; hogs, fat; hogs, meat; hogs, meat byproducts; horses, fat; horses, meat; horses, meat byproducts; sheep, fat; sheep, meat; and sheep, meat byproducts.

5. *Diazinon*. Based on available cattle dermal treatment and feeding data, EPA determined that there is no reasonable expectation of finite residues in or on meat and meat byproducts from the registered uses of cattle ear tags or from consumption of diazinon-treated feed items by cattle. These tolerances are no longer needed under 40 CFR 180.6(a)(3). A tolerance for milk is not required as long as the ear tag labels maintain that use is for beef cattle and non-lactating dairy cattle, only. Therefore, EPA is proposing to revoke the tolerances in 40 CFR 180.153 for residues of the insecticide diazinon in or on cattle, meat (fat basis) (PRE-S appli) and cattle, meat byproducts (fat basis) (PRE-S appli).

6. *Dimethoate*. Metabolism and feeding studies in ruminants and poultry showed no detectable residues of dimethoate in muscle, fat, kidney, liver, milk, and egg samples. However, residues of omethoate, its oxygen analog, were found in liver and egg whites samples and residues of dimethoate carboxylic acid were found in liver, egg whites, and milk samples. Based on these available ruminant and poultry metabolism and feeding data, EPA determined that there is no reasonable expectation of finite residues of concern in meat, fat, and kidney of livestock (ruminants and poultry) from ingestion of dimethoate treated crop and feed items. These tolerances are no longer needed under 40 CFR 180.6(a)(3). Therefore, EPA is proposing to revoke the tolerances in 40 CFR 180.204 for total residues of the insecticide dimethoate (O,O-dimethyl S-(N-methylcarbamoylmethyl) phosphorodithioate) including its oxygen analog (O,O-dimethyl S-(N-methylcarbamoylmethyl) phosphorothioate) in or on the following commodities: Cattle, fat; cattle, meat; goat, fat; goat, meat; hog, fat; hog, meat; horse, fat; horse, meat; poultry, fat; poultry, meat; sheep, fat; and sheep, meat. Use of dimethoate on other commodities, including food and feed commodities, will be addressed in the ''Report on FQPA Tolerance Reassessment Progress and Interim Risk Management Decision'' (IRED), which EPA will complete in the near future.

Also, EPA is proposing in 40 CFR 180.204 to remove the ''(N)'' designation from all entries to conform to current Agency administrative practice (''(N)'' designation means negligible residues).

7. *Fenarimol*. Fenarimol tolerances were reassessed according to the FQPA standard in the August 2002 ''Report of the FQPA Tolerance Reassessment Progress and Risk Management Decision (TRED) for Fenarimol.'' The Agency extrapolated data from a 28–day ruminant feeding study of exaggerated dietary burdens to the 1X feeding rate, and examined the expected impact of the average theoretical dietary burden from wet apple pomace (calculated using Food and Drug Administration monitoring data for apples). Of the currently registered uses of fenarimol, wet apple pomace is the only commodity considered a livestock feed item. (Dry apple pomace is no longer considered a significant feed item). For cattle, goats, horses, and sheep, the Agency concluded from monitoring, feeding, and metabolism data that tolerances for liver should be effectively decreased from 0.1 to 0.05 parts per million (ppm) and tolerances for meat byproducts should be increased from 0.01 to 0.05 ppm based on the highest residue found on an organ tissue; i.e., liver. Because both liver and meat byproduct tolerances were reassessed at the same level (0.05 ppm) for cattle, goats, horses, and sheep, the Agency recommended covering residues in liver by the reassessed tolerances for meat byproducts, revising each commodity terminology to ''meat byproducts, except kidney,'' and revoking existing liver tolerances at 0.1 ppm since they are no longer needed. EPA issued a finding in this TRED that these revised tolerances are safe, as required by section 408 of FFDCA.

Therefore, EPA is proposing to revoke the separate tolerances in 40 CFR 180.421 for residues of the fungicide fenarimol in or on cattle, liver; goat, liver; horse, liver; and sheep, liver. Also, EPA is proposing in 40 CFR 180.421 to increase the tolerances for the meat byproducts of cattle, goats, horses, and sheep, each from 0.01 to 0.05 ppm, and to revise their commodity terminologies to cattle, meat byproducts, except kidney; goat, meat byproducts, except kidney; horse, meat byproducts, except kidney; and sheep, meat byproducts, except kidney.

Expected fenarimol residues in muscle, fat and kidney are calculated from the 28–day data to be less than or near the enforcement method's limit of detection (0.003 ppm). Therefore, the Agency concluded that for muscle, fat and kidney of ruminants it is not possible to establish with certainty whether finite residues will be incurred, but there is a reasonable expectation of finite residues under 40 CFR 180.6(a)(2). While EPA reassessed fenarimol tolerances for cattle, goats, horses, and sheep in the TRED, including meat, kidney, and fat tolerances at 0.01 ppm, the method limit of quantitation, the Agency will address them in a **Federal Register** document to be published in the near future.

In addition, the fenarimol tolerance for milk (0.003 ppm) should be revoked because residues in milk for dairy cattle are predicted to be significantly less than the enforcement method's limit of detection (0.001 ppm). Based on the available data, EPA determined that there is no reasonable expectation of finite residues of fenarimol in milk and that the tolerance is no longer needed under 40 CFR 180.6(a)(3). Therefore, EPA is proposing to revoke the tolerance

in 40 CFR 180.421 for residues of the fungicide fenarimol in milk.

Moreover, EPA determined that there is no reasonable expectation of residue transfer to livestock commodities via consumption of fenarimol-treated crop and feed items because no feed items for poultry and hogs are associated with active fenarimol registrations. The tolerances for eggs, poultry, and hogs are no longer needed and should be revoked. Therefore, EPA is proposing to revoke the tolerances in 40 CFR 180.421 for residues of the fungicide fenarimol in or on the following commodities: Hog, fat; hog, kidney; hog, liver; hog, meat; hog, meat byproducts; poultry, fat; poultry, meat; poultry, meat byproducts; and egg.

Furthermore, in order to conform to current Agency practice, in 40 CFR 180.421, EPA is proposing to revise the tolerance commodity terminology for ''pecans'' to ''pecan.''

8. *Metolachlor*. Based on available ruminant feeding data and the maximum theoretical dietary burden for swine, EPA determined that there is no reasonable expectation of finite residues of metolachlor and its metabolites in fat, kidney, liver, meat, and meat byproducts of hogs. These tolerances are no longer needed under 40 CFR 180.6(a)(3). Therefore, EPA is proposing to revoke the tolerances in 40 CFR 180.368 for the combined residues (free and bound) of the herbicide metolachlor [2-chloro-N-(2-ethyl-6-methylphenyl)-N-(2-methoxy-1-methylethyl)acetamide] and its metabolites, determined as the derivatives, 2-[(2-ethyl-6-methylphenyl)amino]-1-propanol and 4-(2-ethyl-6-methylphenyl)-2-hydroxy-5-methyl-3-morpholinone, each expressed as the parent compound, in or on hog, fat; hog, kidney; hog, liver; hog, meat; and hog, meat byproducts, except kidney and liver.

9. *Propiconazole*. Based on available poultry metabolism and feeding data, EPA determined that there is no reasonable expectation of finite residues of propiconazole and its metabolites (determined as 2,4-dichlorobenzoic acid) in poultry muscle, liver, fat, and egg samples from hens fed 10X the maximum theoretical dietary burden for poultry. These tolerances are no longer needed under 40 CFR 180.6(a)(3). Therefore, EPA is proposing to revoke tolerances in 40 CFR 180.434 for the combined residues of the fungicide 1-[[2-(2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl] methyl]-1H-1,2,4-triazole and its metabolites determined as 2,4-dichlorobenzoic acid and expressed as parent compound in or on poultry, fat; poultry, kidney; poultry, liver; poultry, meat; poultry, meat byproducts, except kidney and liver; and egg.

10. *Sodium acifluorfen*. Label restrictions prohibit use of sodium acifluorfen-treated peanut and soybean forage or hay for feed and grazing livestock on these treated crops. There is no reasonable expectation of residues being transferred to livestock commodities via consumption of feed items derived from crops treated with sodium acifluorfen according to current use directions. Based on the registered food/feed use patterns, EPA determined that there is no reasonable expectation of finite residues of sodium acifluorfen and its metabolites in kidney and liver of cattle, goats, hogs, horses, and sheep; fat, meat, and meat byproducts of poultry; eggs, and milk. These tolerances are no longer needed under 40 CFR 180.6(a)(3). Therefore, EPA is proposing to revoke the tolerances in 40 CFR 180.383 for combined residues of the herbicide sodium salt of acifluorfen (sodium 5-[2-chloro-4-trifluoromethyl) phenoxy]-2-nitrobenzoic acid) and its metabolites (the corresponding acid, methyl ester, and amino analogues) in or on the following commodities: Cattle, kidney; cattle, liver; goat, kidney; goat, liver; hog, kidney; hog, liver; horse, kidney; horse, liver; poultry, fat; poultry, meat; poultry, meat byproducts; sheep, kidney; sheep, liver; egg; and milk.

11. *Thiophanate-methyl*. Based on available ruminant and poultry feeding data, EPA determined that there is no reasonable expectation of finite residues of thiophanate-methyl, its oxygen analogue, and benzimidazole metabolites in fat, liver, meat, and meat byproducts of hogs and poultry. These tolerances are no longer needed under 40 CFR 180.6(a)(3). Therefore, EPA is proposing to revoke the tolerances in 40 CFR 180.371 for residues of the fungicide thiophanate-methyl (dimethyl[(1,2-phenylene)-bis(iminocarbonothioyl)] bis [carbamate]), its oxygen analogue dimethyl-4,4-o-phenylene bis(allophonate), and its benzimidazole-containing metabolites (calculated as thiophanate-methyl) in or on hog, fat; hog, liver; hog, meat; hog, meat byproducts, except liver; poultry, fat; poultry, liver; poultry, meat; and poultry, meat byproducts, except liver.

B. What is the Agency's Authority for Taking this Action?

A ''tolerance'' represents the maximum level for residues of pesticide chemicals legally allowed in or on raw agricultural commodities and processed foods. Section 408 of FFDCA, 21 U.S.C. 301 *et seq.*, as amended by the FQPA of 1996, Public Law 104–170, authorizes the establishment of tolerances, exemptions from tolerance requirements, modifications in tolerances, and revocation of tolerances for residues of pesticide chemicals in or on raw agricultural commodities and processed foods (21 U.S.C. 346(a)). Without a tolerance or exemption, food containing pesticide residues is considered to be unsafe and therefore ''adulterated'' under section 402(a) of the FFDCA. Such food may not be distributed in interstate commerce (21 U.S.C. 331(a) and 342(a)). For a food-use pesticide to be sold and distributed, the pesticide must not only have appropriate tolerances under the FFDCA, but also must be registered under FIFRA (7 U.S.C. *et seq.*). Food-use pesticides not registered in the United States must have tolerances in order for commodities treated with those pesticides to be imported into the United States.

When EPA establishes tolerances for pesticide residues in or on raw agricultural commodities, consideration must be given to the possible residues of those chemicals in meat, milk, poultry, and/or eggs produced by animals that are fed agricultural products (for example, grain or hay) containing pesticide residues (40 CFR 180.6). When considering this possibility, EPA can conclude that:

1. Finite residues will exist in meat, milk, poultry and/or eggs.

2. There is a reasonable expectation that finite residues will exist.

3. There is a reasonable expectation that finite residues will not exist. If there is no reasonable expectation of finite pesticide residues in or on meat, milk, poultry, or eggs, tolerances do not need to be established for these commodities (40 CFR 180.6(b) and 40 CFR 180.6(c)).

EPA has evaluated the meat, milk, poultry, and egg tolerances proposed for revocation in this proposed rule and has concluded that there is no reasonable expectation of finite residues of the listed pesticide active ingredients in or on those commodities.

Regarding the proposed modification of fenarimol tolerances, EPA is required to determine wheter each of the amended tolerances meets the safety standards under the FQPA. A safety finding determination is found in detail in the August 2002 TRED for fenarimol. An electronic copy of the TRED for fenarimol is available on EPA's website at *http://www.epa.gov/pesticides/reregistration/status.htm*.

C. When do These Actions Become Effective?

EPA is proposing that these actions become effective on the day of publication of the final rule in the **Federal Register**.

The Agency has determined that most of the tolerances herein proposed for revocation are no longer needed, based on no reasonable expectation of finite pesticide residues. Therefore, the Agency believes that this revocation date allows users to continue utilizing existing pesticide stocks and that commodities treated with these pesticides in a manner that is lawful under FIFRA will continue to clear the channels of trade since there is no reasonable expectation of finite residues. Also, because fenarimol tolerances for liver, when revised would become duplicates covered by revised ''meat byproduct, except kidney'' tolerances, they are no longer needed as separate liver tolerances.

In addition, because the modifications to increase specific fenarimol tolerances proposed herein are safe, as required by section 408 of FFDCA, the Agency believes that these modifications become effective on the day of publication of the final rule in the **Federal Register**.

If you have comments regarding the effective date, please submit comments as described under **SUPPLEMENTARY INFORMATION.**

D. What Is the Contribution to Tolerance Reassessment?

By law, EPA is required by August 2006 to reassess the tolerances in existence on August 2, 1996. As of July 2, 2003, EPA has reassessed over 6,510 tolerances. This document proposes to revoke a total of 105 tolerances, all of which were previously counted as reassessed. Therefore, none are counted in a final rule toward the August 2006 review deadline of FFDCA section 408(q), as amended by FQPA in 1996.

III. Are The Proposed Actions Consistent with International Obligations?

The tolerance revocations in this proposal are not discriminatory and are designed to ensure that both domestically produced and imported foods meet the food safety standards established by the FFDCA. The same food safety standards apply to domestically produced and imported foods.

EPA is working to ensure that the U.S. tolerance reassessment program under FQPA does not disrupt international trade. EPA considers Codex Maximum Residue Limits (MRLs) in setting U.S. tolerances and in reassessing them. MRLs are established by the Codex Committee on Pesticide Residues, a committee within the Codex Alimentarius Commission, an international organization formed to promote the coordination of international food standards. It is EPA's policy to harmonize U.S. tolerances with Codex MRLs to the extent possible, provided that the MRLs achieve the level of protection required under FFDCA. EPA's effort to harmonize with Codex MRLs is summarized in the tolerance reassessment section of individual Reregistration Eligibility Decision documents. EPA has developed guidance concerning submissions for import tolerance support (65 FR 35069, June 1, 2000) (FRL–6559–3). This guidance will be made available to interested persons. Electronic copies are available on the internet at *http://www.epa.gov/*. On the Home Page select ''Laws, Regulations, and Dockets,'' then select ''Regulations and Proposed Rules'' and then look up the entry for this document under ''**Federal Register**—Environmental Documents.'' You can also go directly to the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

IV. Statutory and Executive Order Reviews

In this proposed rule, EPA is proposing to revoke and modify specific tolerances established under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions (i.e., modification of a tolerance and tolerance revocation for which extraordinary circumstances do not exist) from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this proposed rule has been exempted from review under Executive Order 12866 due to its lack of significance, this proposed rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This proposed rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any other Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency previously assessed whether raising of tolerance levels or revocations of tolerances might significantly impact a substantial number of small entities and concluded that, as a general matter, these actions do not impose a significant economic impact on a substantial number of small entities. These analyses were published on May 4, 1981 (46 FR 24950) and on December 17, 1997 (62 FR 66020), respectively, and were provided to the Chief Counsel for Advocacy of the Small Business Administration. Taking into account these analyses, and the fact that there is no reasonable expectation that residues of the pesticides listed in this proposed rule will be found on the commodities discussed in this proposed rule (so that the lack of the tolerance could not prevent sale of the commodity), I certify that this action will not have a significant economic impact on a substantial number of small entities. Furthermore, for the pesticides named in this proposed rule, the Agency knows of no extraordinary circumstances that exist as to the present proposed revocations that would change EPA's previous analysis. Any comments about the Agency's determination should be submitted to the EPA along with comments on the proposal, and will be addressed prior to issuing a final rule. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism*(64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is

defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This proposed rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this proposed rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This proposed rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this proposed rule.

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 17, 2003.

Martha Monell,

Acting Director, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

§ 180.153 [Amended]

2. Section 180.153 is amended by removing the entries for cattle, meat (fat basis) (PRE-S appli) and cattle, meat byproducts (fat basis) (PRE-S appli) from the table in paragraph (a)(1).

§ 180.204 [Amended]

3. Section 180.204 is amended by removing the entries for cattle, fat; cattle, meat; goat, fat; goat, meat; hog, fat; hog, meat; horse, fat; horse, meat; poultry, fat; poultry, meat; sheep, fat; and sheep, meat from the table in paragraph (a), and by also removing from the table in paragraph (a) the ''(N)'' designation from any entry where it appears.

§ 180.220 [Amended]

4. Section 180.220 is amended by removing the entries for egg; hog, fat; hog, meat byproducts; hog, meat; poultry, fat; poultry, meat byproducts; and poultry, meat from the table in paragraph (a)(1).

§ 180.254 [Amended]

5. Section 180.254 is amended by removing the entries for cattle, fat; cattle, meat; cattle, meat byproducts; goat, fat; goat, meat; goat, meat byproducts; hog, fat; hog, meat; hog, meat byproducts; horse, fat; horse, meat; horse, meat byproducts; sheep, fat; sheep, meat; and sheep, meat byproducts from the table in paragraph (a).

§ 180.269 [Amended]

6. Section 180.269 is amended by removing the entries for cattle, fat; cattle, meat byproducts; cattle, meat; goat, fat; goat, meat byproducts; goat, meat; hog, fat; hog, meat byproducts; hog, meat; horse, fat; horse, meat byproducts; horse, meat; sheep, fat; sheep, meat byproducts; sheep, meat; and milk from the table in paragraph (a).

7. Section 180.311 is revised to read as follows:

§ 180.311 Cacodylic acid; tolerances for residues.

(a) *General.* Tolerances are established for residues of the defoliant cacodylic acid (dimethylarsinic acid), expressed as As2 O3, in or on the following raw agricultural commodity as follows:

Commodity	Parts per million
Cotton, undelinted seed	2.8

(b) Section 18 emergency exemptions. [Reserved]

(c) Tolerances with regional registrations. [Reserved]

(d) Indirect or inadvertent residues. [Reserved]

§ 180.368 [Amended]

8. Section 180.368 is amended by removing the entries for hog, fat; hog, kidney; hog, liver; hog, meat; and hog, meat byproducts, except kidney and liver from the table in paragraph (a).

§ 180.371 [Amended]

9. Section 180.371 is amended by removing the entries for hog, fat; hog, liver; hog, meat byproducts, except liver; hog, meat; poultry, fat; poultry, liver; poultry, meat byproducts, except liver; and poultry, meat from the table in paragraph (a).

10. Section 180.383 is amended by revising the table in paragraph (a) to read as follows:

§ 180.383 Sodium salt of acifluorfen; tolerances for residues.

(a) * * *

Commodity	Parts per million
Peanut	0.1
Rice, grain	0.1
Rice, straw	0.1
Soybean	0.1
Strawberry	0.05

* * * * *

11. Section 180.421 is amended by revising the table in paragraph (a)(1) to read as follows:

§ 180.421 Fenarimol; tolerances for residues.

(a) General. (1) * * *

Commodity	Parts per million
Apple	0.1
Apple, dry pomace	2.0
Apple, wet pomace	2.0
Cattle, fat	0.1
Cattle, kidney	0.1
Cattle, meat	0.01
Cattle, meat byproducts, except kidney	0.05
Goat, fat	0.1
Goat, kidney	0.1
Goat, meat	0.01
Goat, meat byproducts, except kidney	0.05
Horse, fat	0.1
Horse, kidney	0.1
Horse, meat	0.01
Horse, meat byproducts, except kidney	0.05
Pear	0.1
Pecan	0.1
Sheep, fat	0.1
Sheep, kidney	0.1
Sheep, meat	0.01
Sheep, meat byproducts, except kidney	0.05

* * * * *

§ 180.434 [Amended]

12. Section 180.434 is amended by removing the entries for poultry, fat; poultry, kidney; poultry, liver; poultry, meat byproducts, except kidney and liver; poultry, meat; and egg from the table in paragraph (a).

[FR Doc. 03–17730 Filed 7–15–03; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket No. 96–45; FCC 03–115]

Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document is being issued in order to ensure that enhanced Lifeline and Link-Up support is targeted to the most underserved segments of our Nation. The Commission sought comment on the same questions present herein in the *Tribal Stay Order and Further Notice of Proposed Rulemaking*. This Further Notice of Proposed Rulemaking seeks to bolster the record on how to define the geographic areas that are adjacent to reservations or are otherwise part of the reservation's community of interest, in a manner that is consistent with our goal of targeting enhanced Lifeline and Link-Up support to the most underserved segments of the Nation.

DATES: Comments are due on or before August 15, 2003. Reply comments are due on or before September 2, 2003. Written comments by the public on the proposed information collections are due on or before September 2, 2003. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed information collections on or before September 15, 2003.

ADDRESSES: All filings must be sent to the Commission's Secretary, William F. Caton, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collection(s) contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to *jboley@fcc.gov* and to Edward C. Springer, OMB Desk Officer, 10236 NEOB, 725 17th Street, NW., Washington, DC 20503, or via the Internet to *vhuth@omb.eop.gov. See* **SUPPLEMENTARY INFORMATION** for further filing instructions.

FOR FURTHER INFORMATION CONTACT: Shannon Lipp, Attorney, Telecommunications Access Policy Division, Wireline Competition Bureau, (202) 418–7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice of Proposed Rulemaking (FNPRM) in CC Docket No. 96–45, FCC 03–115, released on May 21, 2003. This Further Notice of Proposed Rulemaking was also released with a companion Order on Reconsideration and Report and Order (Order). The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street, SW., Washington, DC, 20554.

I. Further Notice of Proposed Rulemaking

1. In this Further Notice of Proposed Rulemaking (FNPRM), we seek further comment on potential modifications to our rules regarding availability of enhanced Federal Lifeline and Link-Up assistance to qualifying low-income consumers living ''near reservations.''

A. Discussion

2. We seek further comment on the proposals in the record to identify geographic areas that are adjacent to the reservations, consistent with the goal of targeting enhanced Lifeline and Link-Up to the most underserved areas of the Nation. As set forth in the *Tribal Stay and Order*, 65 FR 58721, October 2, 2000, the term ''near reservation,'' as defined by BIA at the time of adoption of the *Twelfth Report and Order and Further Notice of Proposed Rulemaking*, 65 FR 47941, August 4, 2000, and codified in our rules in this Order, includes wide geographic areas that do not possess the same characteristics that warrant the targeting of support to reservations, such as geographic isolation, high rates of poverty, and low telephone subscribership. As several commenters note, this definition of ''near reservation'' incorporates many highly populated, urban areas across the Nation, including major cities such as Phoenix, Sacramento, Seattle, and Las Vegas. As set forth in the *Tribal Stay and Order*, we continue to find that using this definition of ''near reservation'' will not target enhanced Lifeline and Link-Up appropriately.

3. We issue this FNPRM to obtain more detailed information on proposals contained in the current record, as well as additional proposals that may be more consistent with our goal of targeting enhanced Lifeline and Link-Up support to only the most underserved areas of our Nation and that may impose fewer administrative burdens. For instance, USCC recommends excluding major metropolitan areas from the enhanced low-income programs by excluding Consolidated Metropolitan Statistical Areas (CMSAs) from receiving enhanced low-income support. Washington UTC suggests that enhanced Lifeline and Link-Up support be provided in the entirety of any telephone exchange that contains all or any portion of a tribal reservation. In addition, Smith Bagley, Inc. (SBI) proposes that a person qualify for enhanced Lifeline and Link-Up benefits if he or she resides within 50 miles of a recognized Native American reservation and in a county that has a population density of no more than 50 persons per square mile.

4. We seek comment on data that addresses whether these proposed target areas share the same characteristics of reservation areas. For example, SBI fails to explain why it recommends choosing a population density of 50 persons per square mile. We seek record support regarding these issues. Moreover, the proposals of USCC, Washington UTC, and SBI may not adequately ensure that the enhanced Lifeline and Link-Up support mechanisms are targeted only to those areas that share the same attributes as reservations. For example, we believe that these proposals may not exclude large cities from the definition of ''near reservation.'' We seek comment on how these proposals may be tailored to exclude such large cities.

5. We seek comment on how to minimize any administrative burdens raised by these proposals. For example, SBI proposes that the Commission produce and distribute maps outlining all areas that are within a 50 mile radius of a reservation in which the county contains less than 50 persons per square mile. We believe that the Commission may not be the appropriate entity to undertake such tasks because it has no particular expertise with regard to such mapmaking. In addition, we are not aware of any current map that contains all reservations as defined by the Commission. We seek comment on alternative sources for such maps. We seek comment on the feasibility of having prospective ETCs bear the cost and burden of producing their own maps showing the areas in which they request ETC designation.

6. We also seek comment on additional proposals for defining the geographic areas that are near reservations to ensure that enhanced Lifeline and Link Up support is targeted to qualifying low-income consumers living in areas adjacent to, or near, reservations that share many of the same characteristics as the reservations. We request that commenters provide detailed information to assist us in determining how enhanced Lifeline and Link Up support should be targeted. Such information should include the population of the geographical area, the number of income-eligible subscribers, the distance of each area from the nearest reservation, whether there is any legal recognition of that area by the BIA, whether the area includes or is part of a Metropolitan Statistical Area (MSA), and the level of telephone subscribership in the area. Wireline Competition Bureau staff have estimated, through analysis of recent Census data of a sampling of zip codes in near reservation areas, that the level of telephone subscribership in Indian households is lower than the level of telephone subscribership for all households. We ask commenters to provide their own data comparing the level of telephone subscribership in Indian households in near reservation areas with the level of telephone subscribership in all households in near reservation areas, or comment on the Bureau's preliminary estimates. Bureau staff have also estimated that a greater percentage of Indian households in near reservation areas have incomes under $25,000, compared to all households in near reservation areas. We ask commenters to provide their own data comparing the percentage of low-income Indian households in near reservation areas with the percentage of all low-income households in near reservation areas, or comment on the Bureau's preliminary estimates. We note that the Bureau's most recent penetration report indicates that there is a correlation between low levels of household income and low levels of telephone subscribership.

7. Finally, we seek comment on the effect of any proposed ''near reservation'' definitions on the ETC designation process. As explained, we conclude that, pending resolution of the ''near reservation'' definition, petitions for ETC designation relating to near reservation areas will not be considered as petitions relating to tribal lands. Petitioners seeking ETC designation in such areas must follow the procedures outlined in the *Twelfth Report and Order and Further Notice of Proposed Rulemaking* for non-tribal lands prior to submitting a request for designation to the Commission under section 214(e)(6). The Commission reached this conclusion because it believed that near reservation areas do not invoke the same jurisdictional concerns and principles of tribal sovereignty that are associated with areas within the boundaries of reservations. Accordingly, we request that any proposed definitions of ''near reservation'' also include a discussion of the impact of such definition on the ETC designation process.

II. Procedural Matters

A. Paperwork Reduction Act

8. This Further Notice of Proposed Rulemaking contains a proposed information collection. As part of a continuing effort to reduce paperwork burdens, we invite the general public and the Office of Management and Budget (OMB) to take this opportunity to comment on the information collections contained in this Further Notice of Proposed Rulemaking, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due on or before September 2, 2003. OMB comments are due on or before September 15, 2003. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

B. Initial Regulatory Flexibility Analysis

9. As required by the Regulatory Flexibility Act of 1980, as amended, (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic effect on small entities by the policies and rules proposed in the FNPRM. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadline for comments on the FNPRM provided in the Comment Filing Procedures section. The Commission will send a copy of the FNPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, the FNPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.

1. Need for, and Objectives of, the Proposed Rules

10. This FNPRM is being issued in order to ensure that enhanced Lifeline and Link-Up support is targeted to the most underserved segments of our Nation. The Commission sought comment on the same questions present herein in the *Tribal Stay Order and Further Notice of Proposed Rulemaking*. This FNPRM seeks to bolster the record on how to define the geographic areas that are adjacent to reservations or are otherwise part of the reservation's community of interest, in a manner that is consistent with our goal of targeting enhanced Lifeline and Link-Up support to the most underserved segments of the Nation. This action is taken pursuant to the Act's mandate that ''[c]onsumers in all regions of the Nation * * * have access to telecommunications and information services. * * *''

2. Legal Basis

11. The legal basis for any action that may be taken pursuant to the FNPRM is contained in sections 1–4, 201–205 and 254 of the Communications Act of 1934, as amended.

3. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

12. In the IRFA at paragraphs 11–31 of *Tribal Stay Order and Further Notice of Proposed Rulemaking*, we described and estimated the number of small entities that would be affected by the determination to stay application of the enhanced low-income programs to ''near reservation'' areas and to consider alternative definitions. The proposals discussed in this FNPRM apply to the same entities. We therefore incorporate by reference paragraphs 11–31 of the *Tribal Stay Order and Further Notice of Proposed Rulemaking*.

4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

13. The measures under consideration in this FNPRM may, if adopted, result in additional reporting or other compliance requirements. A modified definition of ''near reservation'' may impact reporting requirements for carriers eligible to receive enhanced Lifeline and Link-Up. For example, such carriers may be required to compile maps or derive other means to determine whether qualifying low-income customers fall within any designated geographic areas. In addition, if the current stay is lifted and

an alternative definition of ''near reservation'' is adopted, eligible carriers may be required to submit data regarding an increased number of qualifying low-income consumers. Such increased reporting requirements would be offset by increased opportunities to receive universal service support.

5. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

14. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

15. In the FNPRM, we outline the various alternative proposals that have been suggested to the Commission in response to the *Tribal Stay Order and Further Notice of Proposed Rulemaking*. We seek comment on the cost and benefits of each of these alternative proposals, including the potential administrative burdens involved in implementing such proposals on eligible carriers. The Commission's rules relating to the receipt of enhanced Lifeline and Link-Up support apply equally to all eligible carriers providing service to qualifying low-income consumers. The proposals presented herein are consistent with these standards.

6. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

16. None.

C. Filing of Comments and Reply Comments

17. We invite comment on the issues and questions set forth in the FNPRM. Pursuant to § 1.415 and § 1.419 of the Commission's rules, interested parties may file comments on or before August 15, 2003, and reply comments on or before September 2, 2003. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121, May 1, 1998.

18. Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html*. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov*, and should include the following words in the body of the message, ''get form.'' A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. Parties also should send four (4) paper copies of their filings to Sheryl Todd, Federal Communications Commission, 445 12th Street, Rm. 5–A520, SW., Washington, DC 20554.

19. Written comments by the public on the proposed information collections are due on or before September 2, 2003. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed information collections on or before September 15, 2003. In addition to filing comments with the Secretary, a copy of any comments on the information collection(s) contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to *jboley@fcc.gov* and to Edward Springer, OMB Desk Officer, Room 10236 NEOB, 725 17th Street, NW., Washington, DC 20503 or via the Internet to *edward.springer@omb.eop.gov*.

20. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0531 (voice), 202–418–7365 (tty).

III. Ordering Clauses

21. Accordingly, it is ordered that, pursuant to the authority contained in sections 1–4, 214(e), and 254 of the Communications Act of 1934, as amended, and 254, and § 1.429 of the Commission's rules, this Further Notice of Proposed Rulemaking is adopted.

22. It is further ordered that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Ruth A. Dancey,

Special Assistant to the Secretary.

[FR Doc. 03–17568 Filed 7–15–03; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 68, No. 136
Wednesday, July 16, 2003

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Forest Plan Amendments for Grizzly Bear Habitat Conservation for the Greater Yellowstone Area National Forests

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The purpose of this notice is to inform the public that the Forest Service will prepare an environmental impact statement (EIS) to analyze the environmental effects of amendments to land and resource management plans (forest plans) for the Beaverhead, Custer, and Gallatin National Forests located in the state of Montana; the Targhee National Forest located in the states of Idaho and Wyoming; and the Bridger-Teton and Shoshone National Forests located in the state of Wyoming. This notice describes a proposal to amend six forest plans to provide additional programmatic direction for management of grizzly bear habitat security, developed sites, and livestock within the Grizzly Bear Recovery Area.

DATES: Comments concerning the scope of the analysis must be received on or before August 15, 2003. The agency expects to file a draft EIS with the Environmental Protection Agency (EPA) and make it available for public, agency, and tribal government comment in October 2003. The final environmental impact statement is expected to be filed in February 2004.

ADDRESSES: Send written comments to Dave Cawrse, Team Leader, Grizzly Bear Habitat Amendments, Shoshone National Forest, 808 Meadow Lane Avenue, Cody, WY 82414–4549.

FOR FURTHER INFORMATION CONTACT: Dave Cawrse, Team Leader, telephone (307) 527–6241.

SUPPLEMENTARY INFORMATION: Pursuant to 16 U.S.C. 1604(f)(4) and 36 CFR 219.10(f), the Forest Supervisors give notice that the USDA Forest Service is beginning an environmental analysis and decision making process for this Proposed Action so that interested or affected people can participate in the analysis and contribute to the final decision. The Forest Service is seeking comments from individuals, organizations, tribal governments, and federal, state, and local agencies who are interested in or may be affected by the Proposed Action. The public is invited to help identify issues and define the range of alternatives to be considered in the environmental impact statement. Written comments identifying issues for analysis and the range of alternatives are encouraged.

Purpose and Need for Action

The management of grizzly bear habitat on national forests in the GYA (Greater Yellowstone Area) is a dynamic process. Experience provides the public and land managers with new understanding and insights regarding the conservation of grizzly bear habitat. Scientific research continues to bring forth new theories, observations, and findings relevant to the management of these resources. This learning is continuous. Most importantly, the Yellowstone grizzly bear population has increased over the past 25 years. As a result, the U.S. Fish and Wildlife Service intends to review the status of the Yellowstone grizzly bear population under the Endangered Species Act.

The forest plans for the GYA national forests were approved at various times between 1986 and 1997. Since their approval, the Forest Service has amended these plans. A few of these amendments relate directly to the management of grizzly bear habitat. As a result, existing forest plan direction regarding grizzly bear habitat management varies between six GYA national forests. In addition, the age of forest plan direction regarding grizzly bear habitat management varies from forest to forest.

There is a need to improve the coordination and consistency of forest plan direction in the GYA regarding grizzly bear habitat management, and to update this direction to reflect new management insight, the latest scientific information, and the changing characteristics of the Yellowstone grizzly bear population. Direction for managing the grizzly bear was recently developed through a nine-year inter-agency effort documented in the ''Final Conservation Strategy for The Grizzly Bear in the Greater Yellowstone Area'' (''Conservation Strategy''). This ''Conservation Strategy'' was developed to be the document guiding management and monitoring for the Yellowstone grizzly bear population and its habitat upon recovery and delisting. Additionally, there is a need to clarify the applicability of forest plan grizzly bear habitat management direction if there is a change in the Yellowstone grizzly bear population's status under the Endangered Species Act, and to ensure the long-term recovery and conservation of Yellowstone grizzly bears regardless of their listing as a threatened species under the Endangered Species Act.

There is a need for national forests in the GYA to maintain or improve habitat conditions as of 1998, as measured within each subunit within the Recovery Area, while maintaining options for resource management activities at approximately the same level as existed in 1998. The grizzly population achieved all demographic recovery goals by 1998 with this management regime in place.

The purpose of these amendments is to (1) ensure conservation of habitat within the Recovery Area to support continued recovery of the grizzly bear population, (2) update the management and monitoring of grizzly bear habitat to incorporate recent interagency recommendations and agreements, and (3) provide consistency among Greater Yellowstone Area national forests in managing and monitoring grizzly bear habitat.

Proposed Action

The Forest Service proposes to amend the forest plans for the Beaverhead, Bridger-Teton, Custer, Gallatin, Shoshone, and Targhee National Forests to provide additional programmatic direction for management of grizzly bear habitat security, developed sites, and livestock grazing within the Grizzly Bear Recovery Area. The Proposed Action includes a forest-wide goal, standards, and monitoring requirements. The forest-wide goal promotes the continued recovery of the Yellowstone grizzly bear population. Forest-wide standards are (1) maintain

secure habitat at 1998 levels through management of motorized access routes, with short-term deviations allowed under specific conditions, (2) do not exceed the number of commercial livestock allotments and the number of permitted domestic sheep Animal Months (AMs) from the 1998 level, and (3) manage developed sites at 1998 levels, with some exceptions for administrative and maintenance needs.

All standards apply only to the Recovery Area. Monitoring requirements in the Proposed Action include monitoring adherence to the above standards and monitoring changes in motorized access route density and habitat effectiveness.

Possible Alternatives

A range of alternatives that responds to issues developed during scoping will be considered. A reasonable range of alternatives will be evaluated and reasons will be given for eliminating some alternatives from detailed study, if that occurs. A no action alternative (forest plans would not be amended) will be considered. Written comments on the range of alternatives and their effects will be requested and considered with the draft EIS is released.

Responsible Officials

The Responsible Officials for this decision will be Thomas Reilly, Forest Supervisor, Beaverhead-Deerlodge National Forest, 420 Barrett Street, Dillon, MT 59725–5372; Nancy Curriden, Forest Supervisor, Custer National Forest, 1310 Main Street, Billings, MT 59105–1786; Becki Heath, Forest Supervisor, Gallatin National Forest, PO Box 130, Bozeman, MT 59771–0130; Jerry Reese, Forest Supervisor, Caribou-Targhee National Forest, 1405 Hollipark Drive, Idaho Falls, ID 83401–2100; Kniffy Hamilton, Forest Supervisor, Bridger-Teton National Forest, PO Box 1888, Jackson, WY 83001–1888; and Rebecca Aus, Forest Supervisor, Shoshone National Forest, 808 Meadow Lane Avenue, Cody, WY 82414–4549. Rebecca Aus has been delegated the authority to direct the preparation of the environmental analysis.

Scoping Process

Public participation will be solicited by notifying people by mail. The first formal opportunity to comment is during the scoping process, which begins with the issuance of this notice of intent. Comments concerning the scope of the analysis must be received on or before 30 days after publication of this notice in the **Federal Register**. All comments, including the names and addresses when provided, will be placed in the record and will be available for public inspection and copying at the Shoshone National Forest Supervisor's Office, 808 Meadow Lane Avenue, Cody, WY. The Forest Service will work with tribal governments to address issues concerning Indian tribal self-government and sovereignty, natural and cultural resources held in trust, Indian tribal treaty and Executive Order rights, and any issues that significantly or uniquely affect their communities.

Early Notice of Importance of Public Participation in Subsequent Environmental Review

A draft environmental impact statement will be prepared for comment. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this Proposed Action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the Proposed Action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement on the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

(Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21)

Dated: July 20, 1003.

Rebecca Aus,

Forest Supervisor.

[FR Doc. 03–17941 Filed 7–15–03; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Oregon Coast Provincial Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Oregon Coast Province Advisory Committee will meet in Corvallis, OR, July 24, 2003. The theme of the meeting is Introduction/Overview/Business Planning. The agenda includes: Payments to Counties Update, Siuslaw Stewardship Pilot, PAC Subcommittee Presentation, Public Comment and Round Robin.

DATES: The meeting will be held July 24, 2003, beginning at 9 a.m.

ADDRESSES: The meeting will be held at the LaSells Stewart Center, 100 LaSells Stewart Center, Oregon State University, Corvallis, Oregon 97331.

FOR FURTHER INFORMATION CONTACT: Joni Quarnstrom, Public Affairs Specialist, Siuslaw National Forest, 514–750–7075, or write to Siuslaw National Forest Supervisor, P.O. Box 1148, Corvallis, OR 97339.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Council Discussion is limited to Forest Service/BLM staff and Council Members. Lunch will be on your own. A public input session will be at 2:30 p.m. for fifteen minutes. The meeting is expected to adjourn around 3:30 p.m.

Dated: July 9, 2003.

Gloria D. Brown,

Forest Supervisor.

[FR Doc. 03–17942 Filed 7–15–03; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Maryland Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a conference call of the Maryland Advisory Committee will convene at 1 p.m. and adjourn at 3:30 p.m. on Tuesday, July 29, 2003. The purpose of the conference call is to plan current SAC projects, including release of a report entitled, *City Services and the Justice System: Do Korean American Storeowners in Baltimore, Maryland Get Equal Treatment?* a civil rights forum in Western Maryland, and input regarding meaningful and measurable SAC activity.

This conference call is available to the public through the following call-in number: 1–888–869–0374, access code number: 17878777, contact name is Edward Darden. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls not initiated using the supplied call-in number or over wireless lines and the Commission will not refund any incurred charges. Callers will incur no charge for calls using the call-in number over land-line connections. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and contact name.

To ensure that the Commission secures an appropriate number of lines for the public, persons are asked to register by contacting Edward Darden of the Eastern Regional Office, (202) 376–7533, TDD (202) 376–8116, by 1 p.m. on Monday, July 28, 2003.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, July 1, 2003.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 03–17994 Filed 7–15–03; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–863]

Notice of Extension of Time Limit of Final Results of New Shipper Review: Honey from the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Extension of Time Limit of Final Results of Antidumping Duty New Shipper Review.

SUMMARY: The Department of Commerce is extending the time limit of the final results of the new shipper review of the antidumping duty order on honey from the People's Republic of China until no later than October 31, 2003. The period of review is December 1, 2001, through May 31, 2002. This extension is made pursuant to section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended.

EFFECTIVE DATE: July 16, 2003.

FOR FURTHER INFORMATION CONTACT: Angelica Mendoza at (202) 482–3019 or Donna Kinsella at (202) 482–0194; Antidumping and Countervailing Duty Enforcement Group III, Office Eight, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Statutory Time Limits

Section 751(a)(2)(B)(iv) of the Act requires the Department to issue the final results of a new shipper review within 90 days after the date on which the preliminary results were issued. However, if the Department determines the issues are extraordinarily complicated, section 751(a)(2)(B)(iv) of the Act allows the Department to extend the deadline for the final results to up to 150 days after the date on which the preliminary results were issued.

Background

On June 25, 2002, the Department received a timely request from Wuhan Bee Healthy Co., Ltd. (Wuhan), in accordance with section 751(a)(2)(B) of the Act and section 351.214(c) of the Department's regulations, for a new shipper review of the antidumping duty order on honey from the People's Republic of China (PRC), which has a December anniversary date, and a June semiannual anniversary date. On August 6, 2002, the Department initiated this new shipper review covering the period December 1, 2001, through May 31, 2002. *See Honey From the People's Republic of China: Initiation of New Shipper Antidumping Reviews* (67 FR 50862). On January 30, 2003, the Department fully extended the preliminary results of this review by 120 days until May 27, 2003. *See Honey from the People's Republic of China: Extension of Time Limits for Preliminary Results of New Shipper Antidumping Duty Review* (68 FR 4761). On May 27, 2003, the Department issued its preliminary results of this review. *See Notice of Preliminary Results of Antidumping Duty New Shipper Review: Honey from the People's Republic of China*, 68 FR 33099 (June 3, 2003). In the preliminary results of this review, we indicated that we had received, but due to time constraints not yet analyzed, additional information from both petitioners and Wuhan.[1] We also indicated in the preliminary results of this review that we intended to carefully analyze all issues pertaining to the *bona fides* of Wuhan's U.S. sale of honey, and the proper Indian surrogate to value the raw honey input, for the final results of this review.

Extension of Time Limits for Preliminary Results

Pursuant to section 751(a)(2)(B)(iv) of the Act, the Department may extend the deadline for completion of the final results of a new shipper review by 60 days if it determines that the case is extraordinarily complicated. The Department has determined that this case is extraordinarily complicated because of the issues pertaining to the *bona fides* of Wuhan's U.S. sale and the proper Indian surrogate to value the raw honey input that must be addressed in the final results. Accordingly, the final results of this new shipper review cannot be completed within the statutory time limit of 90 days. Therefore, in accordance with section 751(a)(2)(B)(iv) of the Act and section 351.214(i)(2) of the regulations, the Department is fully extending the time limit for the completion of final results by an additional 60 days. The final results will now be due no later than October 31, 2003.

This notice is published pursuant to sections 751(a)(2)(B) and 777(i)(1) of the Act.

[1] The American Honey Producers Association and the Sioux Honey Association are petitioners in this proceeding.

Dated: July 9, 2003.

Barbara E. Tillman,

Acting Deputy Assistant Secretary for Import Administration, Group III.

[FR Doc. 03–18014 Filed 7–15–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–886, A–557–813, A–549–821]

Initiation of Antidumping Duty Investigations: Polyethylene Retail Carrier Bags from The People's Republic of China, Malaysia, and Thailand

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: July 16, 2003.

FOR FURTHER INFORMATION CONTACT: Fred W. Aziz, Thomas Schauer, or Richard Rimlinger, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4023, (202) 482–0410 or (202) 482–4477, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On June 20, 2003, the Department of Commerce (''the Department'') received a petition on imports of polyethylene retail carrier bags (''PRCBs'') from The People's Republic of China (''the PRC''), Malaysia, and Thailand, filed in proper form by PCL Packaging, Inc., Sonoco Products Company, Superbag Corp., Vanguard Plastics, Inc., and Inteplast Group, Ltd. (referred to hereafter as ''the petitioners''). On June 25, 2003, the Department requested additional information and clarification of certain areas of the petition. The petitioners filed supplements to the petition on June 30, 2003 and July 8, 2003.

In accordance with section 732(b) of the Tariff Act of 1930, as amended (''the Act''), the petitioners allege that imports of PRCBs from the PRC, Malaysia, and Thailand are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act and that such imports are materially injuring and threaten to injure an industry in the United States.

The Department finds that the petitioners filed this petition on behalf of the domestic industry because they are interested parties as defined in section 771(9)(c) of the Act. Furthermore, with respect to the antidumping duty investigations the petitioners are requesting the Department to initiate, they have demonstrated sufficient industry support (see ''Determination of Industry Support for the Petition'' below).

Scope of Investigation

The merchandise subject to this investigation is polyethylene retail carrier bags, which also may be referred to as t-shirt sacks, merchandise bags, grocery bags, or checkout bags. The subject merchandise is defined as non-sealable sacks and bags with handles (including drawstrings), without zippers or integral extruded closures, with or without gussets, with or without printing, of polyethylene film having a thickness no greater than .035 inch (0.889 mm) and no less than .00035 inch (0.00889 mm), and with no length or width shorter than 6 inches (15.24 cm) or longer than 40 inches (101.6 cm). The depth of the bag may be shorter than 6 inches but not longer than 40 inches (101.6 cm). Polyethylene retail carrier bags are typically provided without any consumer packaging and free of charge by retail establishments (*e.g.*, grocery, drug, convenience, department, specialty retail, and discount stores, and restaurants) to their customers to package and carry their purchased products. The scope of the petition excludes (1) polyethylene bags that are not printed with logos or store names and that are close-able with drawstrings made of polyethylene film and (2) polyethylene bags that are packed in consumer packaging with printing that refers to specific end uses other than packaging and carrying merchandise from retail establishments (*e.g.*, garbage bags, lawn bags, trash can liners). Imports of the subject merchandise are classified under statistical category 3923.21.0090 of the Harmonized Tariff Schedule of the United States. This subheading also covers products that are outside the scope of these investigations. Furthermore, although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of these investigations is dispositive.

During our review of the petition, we discussed the scope with the petitioners to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the regulations (62 FR 27296, 27323), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments within 20 calendar days of publication of this notice. Comments should be addressed to Import Administration's Central Records Unit at Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of the preliminary determination.Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (1) at least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition.

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether the petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While the Department and the ITC must apply the same statutory definition regarding the domestic like product (see section 771(10) of the Act), they do so for different purposes and pursuant to separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the domestic like product, such differences do not render the decision of either agency contrary to law.[1]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation,'' *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

[1] See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001), citing *Algoma Steel Corp. v. United States*, 688 F. Supp. 639, 642-44 (CIT 1988).

With regard to the definition of domestic like product, the petitioner does not offer a definition of domestic like product distinct from the scope of the investigation. Based on our analysis of the information presented by the petitioners, we have determined that there is a single domestic like product, plastic retail carrier bags, which is defined in the ''Scope of Investigation'' section above, and we have analyzed industry support in terms of the domestic like product.

The petitioners established industry support representing over 50 percent of total production of the domestic like product. Therefore, the domestic producers or workers who support the petition account for at least 25 percent of the total production of the domestic like product, and the requirements of section 732(c)(4)(A)(i) are met. Furthermore, because the Department received no opposition to the petition, the domestic producers or workers who support the petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for or opposition to the petition. Thus, the requirements of section 732(c)(4)(A)(ii) are also met.

Accordingly, the Department determines that the petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act. See Industry Support Attachment to the Initiation Checklist (''Initiation Checklist''), dated July 10, 2003, on file in the Central Records Unit in Room B-099 of the main Department of Commerce Building.

Period of Investigation

The anticipated period of investigation is April 1, 2002, through March 31, 2003, for the Malaysia and Thailand investigations and October 1, 2002, through March 31, 2003, for the PRC investigation.

Export Price and Normal Value

The following are descriptions of the allegations of sales at less than fair value upon which the Department based its decision to initiate these investigations. The sources of data for the deductions and adjustments relating to U.S. price and normal value are discussed in greater detail in the Initiation Checklist. Should the need arise to use any of this information as facts available under section 776 of the Act, we may reexamine the information and revise the margin calculations, if appropriate.

The petition identified 37 producers of PRCBs in the PRC (see June 20, 2003, petition, Exhibit 5), 14 producers in Malaysia (see June 20, 2003, petition, Exhibit 6), and 16 producers in Thailand (see June 20, 2003, petition, Exhibit 7).

Export Price and Normal Value - The PRC

The petitioners based export price on the price of the PRC-manufactured PRCBs from two Chinese exporters. We have examined the information provided regarding export price and have determined that it represents information reasonably available to the petitioners and have reviewed it for adequacy and accuracy. See Initiation Checklist.

The petitioners assert that the Department considers the PRC to be a non-market-economy (''NME'') country and, therefore, they constructed normal value based on the factors-of-production methodology pursuant to section 773(c) of the Act. In previous cases, the Department has determined that the PRC is an NME country. *See e.g., Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from the People's Republic of China* (*Cold-Rolled Steel from China*), 65 FR 34660 (May 31, 2000). In accordance with section 771(18)(c)(i) of the Act, the NME status remains in effect until revoked by the Department. The NME status of the PRC has not been revoked by the Department and, therefore, remains in effect for purposes of the initiation of this investigation. Accordingly, the normal value of the product is based on factors of production valued in a surrogate market-economy country in accordance with section 773(c) of the Act. In the course of this investigation, all parties will have the opportunity to provide relevant information related to the issues of the PRC's NME status and the granting of separate rates to individual exporters. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585, 22586–87 (May 2, 1994).

As required by 19 CFR 351.202(b)(7)(i)(c), the petitioners provided dumping margin calculations using the Department's NME methodology described in 19 CFR 351.408. For the calculation of normal value, the petitioners based the factors of production, as defined by section 773(c)(3) of the Act (raw materials, labor, and overhead), for PRCBs on the quantities of inputs consumed by a U.S. producer of PRCBs. See Initiation Checklist.

The petitioners selected India as their surrogate country. The petitioners stated that India is comparable to the PRC in its level of economic development and is a significant producer of comparable merchandise. Based on the information provided by the petitioners, we believe that the petitioners' use of India as a surrogate country is reasonable for purposes of initiation of this investigation. See Initiation Checklist.

In accordance with section 773(c)(4) of the Act, the petitioners valued factors of production for PRCBs, where possible, on reasonably available, public surrogate-country data. To value raw materials, including color concentrate, printing ink, adhesive, and corrugated boxes, the petitioners used official Indian government import statistics. They used the most current information for wholesale price indices in India as published in the *International Financial Statistics* of the International Monetary Fund to determine the appropriate adjustments for inflation. The petitioners valued labor using the Department's regression-based wage rate for the PRC, in accordance with 19 CFR 351.408(c)(3). For factory overhead expenses, selling, general and administrative expenses and profit, the petitioners applied rates derived from the publicly available data reported for 2000–2001 for companies in the *Reserve Bank of India Bulletin (RBI Bulletin*) from December 2002. The *RBI Bulletin* covers data for 1,126 companies, including producers of plastics products.

Based on comparisons of export price to normal value, calculated in accordance with section 773(c) of the Act, the estimated dumping margins for PRCBs from the PRC range from 83.81 percent to 129.86 percent.

Export Price and Normal Value - Malaysia

The petitioners based export price on the price of Malay-manufactured PRCBs from a Malaysian producer. In order to obtain ex-factory prices, the petitioners deducted the appropriate inland freight from the sales value. We reviewed the information provided regarding export price and have determined that it represents information reasonably available to the petitioners and have reviewed it for adequacy and accuracy. See Initiation Checklist.

The petitioners based normal value on the price of Malay-manufactured PRCBs produced by the same company from which they obtained the export prices. In order to obtain ex-factory prices, the petitioners deducted inland freight, imputed credit, and value-added taxes from the sales value. The petitioners added charges for printing plates to the sales value. These charges were itemized separately in the price

quotation. The petitioners also made a packing adjustment and a difference-in-merchandise adjustment to normal value. We reviewed the normal value information provided and have determined that it represents information reasonably available to the petitioners and have reviewed it for adequacy and accuracy. See Initiation Checklist.

Based on comparisons of export price to normal value, the estimated dumping margins for PRCBs from Malaysia range from 81.55 percent to 101.74 percent.

Export Price and Normal Value - Thailand

The petitioners based export price on the price of Thai-manufactured PRCBs from a Thai producer. We reviewed the information provided regarding export price and have determined that it represents information reasonably available to the petitioners and have reviewed it for adequacy and accuracy. See Initiation Checklist.

The petitioners based normal value on the price of Thai-manufactured PRCBs produced by the same company from which they obtained the export prices. The petitioners made adjustments for imputed credit expenses, packing, and difference-in-merchandise to normal value. We reviewed the information provided regarding normal value and have determined that it represents information reasonably available to the petitioners and have reviewed it for adequacy and accuracy. See Initiation Checklist.

Based on comparisons of export price to normal value, the estimated dumping margins for PRCBs from Thailand range from 34.84 percent to 122.88 percent.

Fair-Value Comparison

Based on the data provided by the petitioners, there is reason to believe that imports of PRCBs from the PRC, Malaysia, and Thailand are being, or are likely to be, sold in the United States at less than fair value.

Allegations and Evidence of Material Injury and Causation

The petition alleges that the U.S. industry producing the domestic like product is being materially injured and is threatened with material injury by reason of the imports of the subject merchandise sold at less than normal value. The petitioners contend that the industry's injured condition is evidenced by declining trends in market share, pricing, production levels, profits, sales, and utilization of capacity. Furthermore, the petitioners contend that injury and threat of injury is evidenced by negative effects on its cash flow, ability to raise capital, and growth.

These allegations are supported by relevant evidence including import data, lost sales, lost revenue and pricing information. The Department assessed the allegations and supporting evidence regarding material injury and causation and determined that these allegations are supported by accurate and adequate evidence and meet the statutory requirements for initiation (see Initiation Checklist dated July 10, 2003, Re: Material Injury).

Initiation of Antidumping Investigations

Based upon the examination of the petition on PRCBs from the PRC, Malaysia, and Thailand, and other information reasonably available to the Department, we find that the petition meets the requirements of section 732 of the Act. Therefore, we are initiating antidumping duty investigations to determine whether imports of PRCBs from the PRC, Malaysia, and Thailand are being, or are likely to be, sold in the United States at less than fair value. Unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of the petition has been provided to the representatives of the governments of the PRC, Malaysia, and Thailand. We will attempt to provide a copy of the public version of the petition to each producer named in the petition, as appropriate.

International Trade Commission Notification

We have notified the ITC of our initiations, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, no later than August 4, 2003, whether there is a reasonable indication that imports of PRCBs from the PRC, Malaysia, and Thailand are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination for any country will result in the investigation being terminated with respect to that country; otherwise, these investigations will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: July 10, 2003.

Jeffrey May,

Acting Assistant Secretary for Grant Aldonas, Under Secretary.

[FR Doc. 03–18017 Filed 7–15–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–814]

Pure Magnesium from Canada: NAFTA Panel Decision

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of NAFTA Panel decision.

SUMMARY: On April 28, 2003, the North American Free Trade Agreement (''NAFTA'') Panel remanded an affirmative determination by the Department of Commerce (the ''Department'') in the sunset review of the antidumping duty order on pure magnesium from Canada. *See Pure Magnesium from Canada*, Secretariat File No. USA-CDA-00–1904–06, as modified by the NAFTA Panel's June 24, 2003 Order[1] (''*Pure Magnesium from Canada, Third Remand*''). Consistent with the decision of the United States Court of Appeals for the Federal Circuit (Federal Circuit) in *Timken Co. V. United States*, 893 F.2d 337 (Fed. Cir. 1990) (Timken), the Department is notifying the public that *Pure Magnesium from Canada, Third Remand* and the NAFTA Panel's earlier opinions in this case, discussed below, were ''not in harmony'' with the Department's original results.

EFFECTIVE DATE: July 16, 2003.

FOR FURTHER INFORMATION CONTACT: Martha Douthit or Kelly Parkhill, Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW, Washington, D.C. 20230; telephone: (202) 482–5050 or (202) 482–3791, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 5, 2000, the Department published a notice of the final results of the sunset review of the antidumping duty order on pure magnesium from Canada. *See Pure Magnesium From Canada; Final Results of Full Sunset Review*, 65 FR 41436, July 5, 2000.

[1] *See Pure Magnesium from Canada*, Secretariat File No. USA-CDA-00-1904-06 (June 24, 2003).

Subsequent to the Department's *Final Results*, respondents filed a complaint before the NAFTA Panel challenging these results. Thereafter, the NAFTA Panel issued an Order and Opinion dated March 27, 2002. *See Pure Magnesium from Canada*, Secretariat File No. USA-CDA-00–1904–06, (''*First Remand*''). On May 28, 2002, the Department released final results of determination pursuant to NAFTA Panel remand of the sunset review of the antidumping duty order on pure magnesium from Canada. On October 15, 2002, the NAFTA Panel issued its second remand redetermination in the Canadian magnesium antidumping order sunset case concerning two issues. *See Decision of the Panel Concerning the Remand Determination by the Department of Commerce, Pure Magnesium From Canada*, File USA-CDA-00–1904–07 (Oct. 15, 2002), at 3, (''*Second Remand*''). On January 28, 2003, the Department's filed its second redetermination on remand with the NAFTA Secretariat. On April 28, 2003, the NAFTA Panel remanded an affirmative determination by the Department with instructions to revoke the antidumping order on pure magnesium from Canada. On June 24, 2003, the NAFTA Panel modified the Panel's Decision and Order issued on April 28, 2003.

Timken Notice

In its decision in *Timken*, the Federal Circuit held that, pursuant to 19 U.S.C. 1516a(e), the Department must publish notice of a CIT decision which is ''not in harmony'' with the Department's results. *Timken*, 893 F.2d at 340. Because NAFTA panels step into the shoes of the courts they are replacing, they must apply the law of the national court that would otherwise review the administrative determination. Therefore, we are publishing notice that the NAFTA Panel's decision in *Pure Magnesium from Canada, Third Remand* is ''not in harmony'' with the Department's sunset results. Publication of this notice fulfills the obligation imposed upon the Department by the decision in *Timken*. In addition, this notice will serve to continue the suspension of liquidation. If an Extraordinary Challenge Committee panel request (''ECC panel request'') is not filed, or if an ECC panel request is filed, and the NAFTA panel's decision is upheld, the Department will publish amended final sunset review results revoking the antidumping order on pure magnesium from Canada.

Dated: July 10, 2003.

Jeffrey A. May,

Acting Assistant Secretary for Grant Aldonas, Under Secretary.

[FR Doc. 03–18016 Filed 7–15–03; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–809]

Certain Forged Stainless Steel Flanges From India: Final Results and Partial Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results and partial rescission of antidumping duty administrative review of certain forged stainless steel flanges from India.

SUMMARY: The Department of Commerce (''the Department'') has conducted an administrative review of the antidumping duty order on certain forged stainless steel flanges from India (A-533–809) produced and/or exported by Echjay Forgings Pvt. Ltd. (''Echjay''), Viraj Forgings Ltd. (''Viraj''), Snowdrop Trading Pvt. Ltd. (''Snowdrop''), Bhansali Ferromet Pvt. Ltd. (''Bhansali''), Panchmahal Steel Ltd. (''Panchmahal''), Metal Forgings Rings & Bearings Pvt. Ltd. (''MF''), and Patheja Forgings and Auto Parts, Ltd. (''Patheja''). The period of review (POR) is February 1, 2001, through January 31, 2002. Based on our analysis of comments received, these final results differ from the Preliminary Results for Echjay. The final results are listed below in the ''Final Results of Review'' section.

EFFECTIVE DATE: July 16, 2003.

FOR FURTHER INFORMATION CONTACT: Helen Kramer at (202) 482–0405 (Snowdrop), Shireen Pasha at (202) 482–0193 (Echjay), or Dena Aliadinov at (202) 482–3362 (Viraj), Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On March 10, 2003, the Department published the preliminary results and partial rescission of its administrative review of the antidumping duty order on certain forged stainless steel flanges (''SS flanges'') from India. *See Notice Of Preliminary Results And Partial Rescission Of Antidumping Duty Administrative Review*, 68 FR 11361 (March 10, 2003) (''*Preliminary Results*'').

We invited parties to comment on the *Preliminary Results*. On April 9, 2002, we received case briefs from Echjay and Snowdrop. On April 15, 2003, we returned the case brief submitted by Echjay to its counsel, requesting that Echjay delete all new information and resubmit the brief by 8:30 a.m. on April 16, 2003. On April 16, 2003, the Department received the revised case brief from counsel on behalf of Echjay. A public hearing was held on April 16, 2003. We note that Viraj did not submit a brief.

Partial Rescission

In our preliminary results, we announced our preliminary decision to rescind the review with respect to Bhansali, Panchmahal, MF, and Patheja, because these companies apparently had no entries of SS flanges from India during the POR. *See Preliminary Results* 68 FR at 11362. We have received no new information contradicting the decision. Therefore, we are rescinding the administrative review with respect to Bhansali, Panchmahal, MF and Patheja.

Scope of the Review

The products under review are certain forged stainless steel flanges, both finished and not finished, generally manufactured to specification ASTM A-182, and made in alloys such as 304, 304L, 316, and 316L. The scope includes five general types of flanges. They are weld-neck, used for butt-weld line connection; threaded, used for threaded line connections; slip-on and lap joint, used with stub-ends/butt-weld line connections; socket weld, used to fit pipe into a machined recession; and blind, used to seal off a line. The sizes of the flanges within the scope range generally from one to six inches; however, all sizes of the above-described merchandise are included in the scope. Specifically excluded from the scope of this order are cast stainless steel flanges. Cast stainless steel flanges generally are manufactured to specification ASTM A-351. The flanges subject to this order are currently classifiable under subheadings 7307.21.1000 and 7307.21.5000 of the Harmonized Tariff Schedule (HTS). Although the HTS subheadings are provided for convenience and customs purposes, the written description of the merchandise under review is dispositive of whether or not the merchandise is covered by the review.

Use of Facts Otherwise Available

As discussed in detail in the *Preliminary Results*, we have determined to use facts otherwise available for Echjay, in reconstructing its constructed value to arrive at the correct margin; and, as noted in the *Preliminary Results*, we determine that, in accordance with sections 776(a) and (b) of the Act, the use of adverse facts available is appropriate for Snowdrop, whose producers did not respond to our requests for information. The Department has received comments from Echjay and Snowdrop, all of which are addressed in the ''Issues and Decision Memorandum.''

Analysis of Comments Received

The Department has received comments from Echjay and Snowdrop, all of which are addressed in the ''Issues and Decision Memorandum'' from Barbara E. Tillman, Acting Deputy Assistant Secretary, Import Administration, to Joseph Spetrini, Acting Assistant Secretary, Import Administration, dated July 8, 2003 (''*Decision Memorandum*''), which is hereby adopted by this notice. Attached to this notice as an Appendix is a list of the issues that Echjay and Snowdrop have raised and to which we have responded in the *Decision Memorandum*. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the Department's Central Records Unit, located at 14th Street and Constitution Avenue, NW, Room B-099. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Import Administration website at http://ia.ita.doc.gov/ under the heading *Federal Register Notices*. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Changes Since the Preliminary Results

Based on our analysis of comments received and findings at verification, we have made certain changes in the margin calculations. These changes are noted in various sections of the *Decision Memorandum*, accessible in B-099 and on the Web at www.ia.ita.doc.gov/frn.

Final Results of Review

We determine that the following dumping margins exist for the period February 1, 2001 through January 31, 2002:

Manufacturer/Exporter	Margin (Percent)
Echjay Forgings/Pushpaman Exports	20.08
Snowdrop	210.00
Viraj	0

All other entries of the subject merchandise during the POR will be liquidated at the antidumping duty rate in place at the time of entry. The Department will issue appropriate assessment instructions directly to the U.S. Bureau of Customs and Border Protection within 15 days of publication of these final results of review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) for the companies named above, the cash deposit rates will be the rates for these firms shown above, except that, for exporters with de minimis rates (*i.e.*, less than 0.5 percent) no deposit will be required; (2) for previously-reviewed producers and exporters with separate rates, the cash deposit rate will be the company-specific rate established for the most recent period for which they were reviewed; and (3) for all other producers and exporters, the rate will be 162.14 percent, the ''all others'' rate established in the less than fair value investigation (59 FR 5994, February 9, 1994). These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation, which is subject to sanction.

We are issuing and publishing this determination and notice in accordance with sections section 751(a)(1) and 777(i)(1) of the Act.

Dated: July 8, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for for Grant Aldonas, Under Secretary.

Appendix

List of Comments and Issues in the Decision Memorandum

Echjay

1. Partial Adverse Facts Available for Direct Materials
2. Partial Adverse Facts Available for Packing Costs
3. Duty Drawback
4. Calculation Errors for Direct Material
5. Calculation Errors for Direct Labor
6. Calculation Errors for General and Administrative Expenses
7. Calculation Error for Variable Overhead

Snowdrop

8. Use of Total Adverse Facts Available
9. Corroboration of Antidumping Duty Margin

[FR Doc. 03–18013 Filed 7–15–03; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in Suite 4100W, U.S. Department of Commerce, Franklin Court Building, 1099 14th Street, NW., Washington, DC.

Docket Number: 03–029. *Applicant:* Villanova University, 800 Lancaster Avenue, Villanova, PA 19085. *Instrument:* Fast Flame Ionization Detector (FID), Model HFR 500. *Manufacturer:* Cambustion Ltd, United Kingdom. *Intended Use:* The instrument is intended to be used to study the dynamic response of automotive exhaust after-treatment systems. Also, the instrument will be used on a variety of projects related to the dynamics measurement, modeling, diagnosis and control of exhaust after-treatment systems. Application accepted by Commissioner of Customs: June 19, 2003.

Docket Number: 03–030. *Applicant:* The Research Foundation of the State University of New York, Institute for Laser, Photonics & Biophotonics, 428 Natural Sciences Complex, Buffalo, NY 14260. *Instrument:* Scanning Nearfield Optical Microscope, Model AlphaSNOM. *Manufacturer:* Wissenschaftliche Instrumente und Technologie GmbH, Germany. *Intended Use:* The instrument is intended to be used to study organic nanocrystals, photonic crystals, biological samples, and polymers. Objectives of the research are:

1. Understanding of up-conversion mechanism in nanoscale for organic nanocrystals.
2. The influence of photonic crystals on the nonlinear materials incorporated inside the structure.
3. Intracellular tracking of viral particles.
4. Optimize parameters in order to get highest resolution in case of near field scanning lithography for polymers.

Application accepted by Commissioner of Customs: June 20, 2003.

Docket Number: 03–031. *Applicant:* Medical College of Georgia, 1120 15th Street, CB–2803, Augusta, GA 30912–2630. *Instrument:* Electron Microscope, Model JEM–1230 (HC). *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* The instrument is intended to be used in research to understand the structure and functions of synapses in the developing and mature rat brain. Transmission electron microscopy coupled with serial-sectioning and 3D image reconstruction will be used in perform a quantitative analysis of the ultrastructure, connectivity, and plasticity of presynaptic, postsynaptic, and glial elements of rat brain. *Application accepted by Commissioner of Customs:* June 24, 2003.

Docket Number: 03–032. *Applicant:* University of California, Los Angeles, Department of Neurobiology, 10833 Le Conte Avenue, Los Angeles, CA 90095–1763. *Instrument:* Electron Microscope, Model Tecnai G^2 12 TWIN. *Manufacturer:* FEI Company, The Netherlands. *Intended Use:* The instrument is intended to be used in the following applications for the high-resolution freeze-fraction technique: (1) To provide 3–D models of functionally characterized channels and transporters reconstituted in liposomes and (2) identify tags genetically engineered into the molecule, such as the green fluorescent protein (GFP) or single cysteine substitutions having gold particles chemically attached. Application accepted by Commissioner of Customs: June 26, 2003.

Docket Number: 03–033. *Applicant:* University of Washington, Department of Astronomy, 351580, Seattle, WA 98195. Instrument: Electron Microscope, Model Tecnai ^{2} F20 S–TWIN MAT. *Manufacturer:* FEI Company, The Netherlands. *Intended Use:* The instrument is intended to be used for the study of interplanetary dust particles (IDPs) which have been collected in Earth's stratophere by high-flying NASA aircraft. The instrument will also be used to study samples of comet dust returned to Earth in the year 2006 from the Stardust spacecraft. Application accepted by Commissioner of Customs: June 26, 2003.

Docket Number: 03–034. *Applicant:* U.S. Department of Agriculture, ARS, PWA Office, 800 Buchanan Street, Albany, CA 94710. Instrument: Laboratory Decanter Centrifuge, Type MDZ 003. *Manufacturer:* Limetic GmbH, Germany. *Intended Use:* The instrument is intended to be used to evaluate the separation of fraction of wheat slurries that have been prepared to enhance separability by density. Slurries of predeveloped wheat flour dough or batters that have been distributed and/or suspended in water or alcohol-water solutions will be separated. Machine paramets, flow rate and rpm will be assessed for their role in producing enriched fractions. *Application accepted by Commissioner of Customs:* July 1, 2003.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 03–18015 Filed 7–15–03; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Judges Panel of the Malcolm Baldrige National Quality Award

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of partially closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that the Judges Panel of the Malcolm Baldrige National Quality Award will meet Thursday, July 31, 2003. The Judges Panel is composed of nine members prominent in the field of quality management and appointed by the Secretary of Commerce. The purpose of this meeting is to discuss the criteria for moving applicants to consensus/site visit, review of stage 1 process, review of stage 1 data and selection of applicants for consensus, provide guidance for the Examiners on scoring, summary of feedback to Judges from the 2003 Teamleaders' calls, discuss flowchart for November process and summary of Improvement Day. The applications under review contain trade secrets and proprietary commercial information submitted to the Government in confidence. All visitors to the National Institute of Standards and Technology site will have to pre-register to be admitted. Anyone wishing to attend this meeting must register 48 hours in advance in order to be admitted. Please submit your name, time of arrival, e-mail address and phone number to Virginia Davis no later than Monday, July 28, 2002, and she will provide you with instructions for admittance. Ms. Davis' e-mail address is *virginia.davis@nist.gov* and her phone number is 301/975–2361.

DATES: The meeting will convene July 31, 2003 at 8 a.m. and adjourn at 4:30 p.m. on July 31, 2003. It is estimated that the closed portion of the meeting will last from 8 a.m. until 1 p.m. and the open portion of the meeting will last from 1 p.m. until 4:30 p.m.

ADDRESSES: The meeting will be held at the National Institute of Standards and Technology, Building 222, Red Training Room, Gaithersburg, Maryland 20899. Please note admittance instructions under **SUMMARY** paragraph.

FOR FURTHER INFORMATION CONTACT: Dr. Harry Hertz, Director, National Quality Program, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, telephone number (301) 975–2361.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on December 3, 2002, that part of the meeting of the Judges Panel will be closed pursuant to Section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. app. 2, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94–409. The meeting, which involves examination of Award applicant data from U.S. companies and a discussion of this data as compared to the Award criteria in order to recommend Award recipients, may be closed to the public in accordance with Section 552b(c)(4) of Title 5, United States Code, because the meetings are likely to disclose trade secrets and commercial or financial information obtained from a person which is privileged or confidential.

Dated: July 9, 2003.

Arden L. Bement, Jr.,

Director.

[FR Doc. 03–17902 Filed 7–15–03; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Panel to Review Sexual Misconduct Allegations at the United States Air Force Academy

AGENCY: Department of Defense.

ACTION: Notice of advisory committee meeting.

SUMMARY: The Panel to Review Sexual Misconduct Allegations at the United States Air Force Academy met in a closed session for approximately one hour on July 11, 2003. Congress directed the establishment of this seven member panel in Public Law 108–11, Emergency Wartime Supplemental Appropriations Act, 2003.

The session was closed to the public in accordance with 5 U.S.C. 552b(c)(6) because the panel members discussed matters of a personal nature, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published after the meeting took place due to unusual administrative difficulties and the short time frame Congress allowed for the Panel to complete their review and produce a final report.

DATES: July 11, 2003.

ADDRESSES: Antlers Adam's Mark Hotel, 4 S. Cascade Ave., Colorado Springs, CO 80903.

FOR FURTHER INFORMATION CONTACT: Sheila Earle, Designated Federal Official, 703–601–2553.

Dated: July 9, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03–17903 Filed 7–15–03; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF EDUCATION

Notice Of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by August 10, 2003. A regular clearance process is also beginning. Interested persons are invited to submit comments on or before September 15, 2003.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Karen Lee, Desk Officer: Department of Education, Office of Management and Budget; 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the Internet address *Karen_F._Lee@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.,* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on respondents, including through the use of information technology.

Dated: July 10, 2003.

Joseph Schubart,

Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

Office of Elementary and Secondary Education

Type of Review: New.

Title: Mathematics and Science Partnerships—Basic State Educational Agency Information.

Abstract: Given the size of the program's fiscal year 2003 appropriation, the Mathematics and Science Partnerships program (Title II, part B of the Elementary and Secondary Education Act, as amended by the No Child Left Behind Act of 2002 (Public Law 107–110) becomes a State educational agency (SEA)-administered formula grant program. Section 2202 of the ESEA has the Department make awards to SEAs without allowance for its review and approval of a program application. This State Survey contains minimum information that the Department needs in order to (1) Be able to provide technical assistance to SEAs as they begin implementing their programs, and (2) monitor programs effectively.

Additional Information: The Department is requesting emergency processing for the State Survey for the

new Mathematics and Science Partnerships Program (Title II, part B of the Elementary and Secondary Education Act, as amended by the No Child Left Behind Act) due to an unanticipated event. The FY 2003 appropriation for this program is slightly more than $100 million, and the program is now a SEA—administered formula grant program. The awarding of funds to SEAs is based on statutory formula. Normal processing for this collection would likely delay approval for the State Survey this year. The Department quite simply needs the basis information our State Survey requests much sooner if we are to meet our responsibilities to provide technical assistance as SEAs begin to administer this new and important program, and to be able to monitor its implementation.

Frequency: Annually.

Affected Public: Individuals or households; Businesses or other for-profit; Not-for-profit institutions; Farms; Federal Government; State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 780.

Burden Hours: 31,200.

Requests for copies of the proposed information collection request may be accessed from *http://www.edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 2275. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *vivan.reese@ed.gov.* Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements, contact Kathy Axt at her e-mail address *Kathy.Axt@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 03–17915 Filed 7–15–03; 8:45 am]

BILLING CODE 4000–1–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before September 15, 2003.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: July 11, 2003.

Joseph Schubart,

Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

Office of Safe and Drug Free Schools

Type of Review: Extension.

Title: Gun-Free Schools Act Report.

Frequency: Annually.

Affected Public: State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden: Responses: 14,418. *Burden Hours:* 30,636.

Abstract: The Gun-Free Schools Act (GFSA) requires each State to provide annual reports to the Secretary concerning implementation of the Act's requirements regarding expulsions from schools resulting from firearms violations.

Requests for copies of the proposed information collection request may be accessed from *http://www.edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 2302. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *vivian_reese@ed.gov.* Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at her e-mail address *Kathy.Axt@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 03–17937 Filed 7–15–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before August 15, 2003.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New

Executive Office Building, Washington, DC 20503 or should be electronically mailed to the Internet address *Lauren_Wittenberg@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: July 11, 2003.

Joseph Schubart,

Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

Institute of Education Sciences

Type of Review: New.

Title: Culturally Based Education for American Indian/Alaska Native Students: School Feasibility Survey and Questionnaire.

Frequency: One-time.

Affected Public: State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden: Responses: 180. Burden Hours: 205.

Abstract: This survey is proposed as part of a feasibility study to determine whether it is possible to conduct experimental or quasi-experimental studies in Native language and culture educational interventions. This survey will identify possible study sites. These sites must have culturally based educational programs in place for American Indian and Alaska Natives students and must indicate that it is possible to conduct such a scientifically designed study.

Requests for copies of the submission for OMB review; comment request may be accessed from *http://www.edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 2242. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *vivan.reese@ed.gov.* Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Katrina Ingalls at her e-mail address *Katrina.Ingalls@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 03–17938 Filed 7–15–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA Number 84.362B]

Native Hawaiian Education Council

AGENCY: Office of Elementary and Secondary Education. Department of Education.

ACTION: Notice soliciting recommendations for membership of the Native Hawaiian Education Council and on the criteria for selecting members.

SUMMARY: We are soliciting recommendations regarding whom the Secretary of Education should appoint to the Native Hawaiian Education Council and the criteria that should be used in selecting members of the Council.

SUPPLEMENTARY INFORMATION: *General:* Section 7204 of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001 (Pub. L. 107–110), authorizes the Secretary of Education to establish a Native Hawaiian Education Council to help coordinate the educational and related services and programs available to Native Hawaiians, including programs receiving funding under the Native Hawaiian Education Act (part B of title VII of the reauthorized ESEA). The Council will be responsible for assessing the extent to which these services and programs meet the needs of Native Hawaiians, and for collecting data on the status of Native Hawaiian education. In addition, the Council will provide direction and guidance to Federal, State, and local agencies to improve the use of resources relating to Native Hawaiian education, and will serve in an advisory capacity, where appropriate. The Council will also provide administrative support and financial assistance to any individual island councils established under the statute to address their distinct needs.

The legislation states that the Native Hawaiian Education Council may consist of no more than twenty-one members, unless otherwise determined by a majority of the Council. Furthermore, the legislation provides that at least ten members of the Education Council must be providers of Native Hawaiian education services and ten members must be Native Hawaiians or Native Hawaiian education consumers. In addition, membership must include a representative of the State of Hawaii Office of Hawaiian Affairs. The Secretary of Education will appoint members of the Native Hawaiian Education Council based on recommendations he receives from the Native Hawaiian community.

Request for Recommendations

To assist the Secretary in establishing an Education Council that will effectively advance the purposes of the Native Hawaiian Education Act, the Secretary requests that the public provide the Department with either or both of the following—

(1) The names of individuals whom you recommend for appointment to the Native Hawaiian Education Council, together with letters of recommendation describing the qualifications of those individuals for service on the Council, and addresses and telephone numbers of those individuals; and

(2) Recommendations concerning the criteria that the Secretary should use in selecting members of the Council.

DATES: In order for the Secretary to establish the Council on a timely basis, we request that the recommendations concerning Council membership and selection criteria be submitted on or before August 15, 2003.

ADDRESSES: Address all recommendations in response to this notice to Mrs. Lynn Thomas, U.S. Department of Education, 400 Maryland Avenue, SW., room 3C126, Mail Stop 6140, Washington, DC 20202. If you prefer to send your recommendations by facsimile transmission, use the

following number: (202) 205–5630. If you prefer to send your recommendations through the Internet, use the following address: *lynn.thomas@ed.gov.*

FOR FURTHER INFORMATION CONTACT: Mrs. Lynn Thomas. Telephone: (202) 205–1541 or via Internet: *http://www.commentNHEC@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this notice in an alternative format (*e.g.,* Braille, large print, audiotape, or computer diskette) on request to the contact person listed above.

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To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll-free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official version of the **Federal Register** and the Code of Federal Regulations is available on GPO access at: *http://www.access.gpo.gov/nara/index.html*

Dated: July 10, 2003.

Eugene W. Hickok,

Under Secretary of Education.

[FR Doc. 03–17871 Filed 7–15–03; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of Fossil Energy

[FE Docket Nos. 01–76–NG and 03–25–LNG]

Enron Canada Corp. and Duke Energy Marketing America, LLC; Orders Granting and Vacating Authority To Import and Export Natural Gas, Including Liquefied Natural Gas

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of Orders.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy gives notice that during June 2003, it issued Orders granting and vacating authority to import and export natural gas, including liquefied natural gas. These Orders are summarized in the attached appendix and may be found on the FE Web site at *http://www.fe.doe.gov* (select gas regulation), or on the electronic bulletin board at (202) 586–7853. They are also available for inspection and copying in the Office of Natural Gas & Petroleum Import & Export Activities, Docket Room 3E–033, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The Docket Room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on July 8, 2003.

Clifford P. Tomaszewski,

Manager, Natural Gas Regulation, Office of Natural Gas & Petroleum Import & Export Activities, Office of Fossil Energy.

APPENDIX—ORDERS GRANTING AND VACATING IMPORT/EXPORT AUTHORIZATIONS

[DOE/FE Authority]

Order No.	Date issued	Importer/exporter FE docket No.	Import volume	Export volume	Comments
1745–A	6–18–03	Enron Canada Corp. 01–76–NG			Vacate blanket import and export authority.
1872	6–30–03	Duke Energy Marketing America, LLC. 03–25–LNG	900 Bcf		Import and export natural gas, including liquefied natural gas (LNG), from and to Canda and Mexico, and to import LNG from other international sources. The term of the authority is from July 1, 2003, and extending through June 30, 2005.

[FR Doc. 03–17973 Filed 7–15–03; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Agency information collection activities: submission for OMB review; comment request.

SUMMARY: The EIA has submitted the energy information collection listed at the end of this notice to the Office of Management and Budget (OMB) for review and a three-year extension under section 3507(h)(1) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) (44 U.S.C. 3501 *et seq*).

DATES: Comments must be filed by August 15, 2003. If you anticipate that you will be submitting comments but find it difficult to do so within that period, you should contact the OMB Desk Officer for DOE listed below as soon as possible.

ADDRESSES: Send comments to Bryon Allen, OMB Desk Officer for DOE, Office of Information and Regulatory Affairs, Office of Management and Budget. To ensure receipt of the comments by the due date, submission by FAX (202–395–7285) or e-mail (*BAllen@omb.eop.gov*) is recommended. The mailing address is 726 Jackson Place NW., Washington, DC 20503. The OMB DOE Desk Officer may be telephoned at (202) 395–3087. (A copy of your comments should also be provided to EIA's Statistics and Methods Group at the address below.)

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Grace Sutherland. To ensure receipt of the comments by the due date, submission by FAX (202–287–1705) or e-mail (*grace.sutherland@eia.doe.gov*) is recommended. The mailing address is Statistics and Methods Group (EI–70), Forrestal Building, U.S. Department of Energy, Washington, DC 20585–0670. Mrs. Sutherland may be contacted by telephone at (202) 287–1712.

SUPPLEMENTARY INFORMATION: This section contains the following information about the energy information collection submitted to OMB for review: (1) The collection

numbers and title; (2) the sponsor (*i.e.*, the Department of Energy component); (3) the current OMB docket number (if applicable); (4) the type of request (*i.e.*, new, revision, extension, or reinstatement); (5) response obligation (*i.e.*, mandatory, voluntary, or required to obtain or retain benefits); (6) a description of the need for and proposed use of the information; (7) a categorical description of the likely respondents; and (8) an estimate of the total annual reporting burden (*i.e.*, the estimated number of likely respondents times the proposed frequency of response per year times the average hours per response).

1. EIA–28, ''Financial Reporting System''

2. Energy Information Administration

3. OMB Number 1905–0149

4. Three-year approval requested

5. Mandatory

6. The Financial Reporting System, Form EIA–28 collects data used to analyze the energy industry's competitive environment as well as energy industry resource development, supply distribution, and profitability issues. Survey results from major energy producers are published annually and are used by both public and private analysts.

7. Business or other for-profit

8. 12,880 hours (28 respondents x 1 response per year x 460 hours per response).

Statutory Authority: Section 3507(h)(1) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) (44 U.S.C. 3501 et seq.).

Issued in Washington, DC, July 10, 2003.

Nancy J. Kirkendall,

Director, Statistics and Methods Group, Energy Information Administration.

[FR Doc. 03–17969 Filed 7–15–03; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL03–139–000, EL03–137–000, EL03–138–000, EL03–140–000, EL03–141–000, EL03–142–000, EL03–143–000, EL03–144–000, EL03–145–000, EL03–146–000, EL03–147–000, EL03–148–000, EL03–149–000, EL03–150–000, EL03–151–000, EL03–152–000, EL03–153–000, EL03–154–000, EL03–155–000, EL03–156–000, EL03–157–000, EL03–158–000, EL03–159–000, EL03–160–000, EL03–161–000, EL03–162–000, EL03–163–000, EL03–164–000, EL03–165–000, EL03–166–000, EL03–167–000, EL03–168–000, EL03–169–000, EL03–170–000, EL03–171–000, EL03–172–000, EL03–174–000, EL03–175–000, EL03–176–000, EL03–177–000, EL03–178–000 and EL03–179–000]

American Electric Power Service Corporation, et al.; Notice of Plenary Conference

July 9, 2003.

American Electric Power Service Corporation, Aquila, Inc., Arizona Public Service Company, Automated Power Exchange, Inc., Bonneville Power Administration, California Department of Water Resources, California Power Exchange, Cargill-Alliant, LLC, City of Anaheim, California, City of Azusa, California, City of Glendale, California, City of Pasadena, California, City of Redding, California, City of Riverside, California, Coral Power, LLC, Duke Energy Trading and Marketing Company, Dynegy Power Marketing Inc., Dynegy Power Corp., El Segundo Power, LLC, Long Beach Generation LLC, Cabrillo, Power I LLC, and Cabrillo Power II LLC, Enron Power Marketing, Inc., and Enron Energy Services Inc., P & L Energy, Idaho Power Company, Los Angeles Department of Water and Power, Mirant Americas Energy Marketing, LP, Mirant California, LLC, Mirant Delta, LLC, and Mirant Potrero, LLC, Modesto Irrigation District, Morgan Stanley Capital Group, Northern California Power Agency, Pacific Gas and Electric Company, PacifiCorp, PGE Energy Services, Portland General Electric Company, Powerex Corporation, (f/k/a British Columbia Power Exchange Corp.) Public Service Company of Colorado, Public Service Company of New Mexico, Puget Sound Energy, Inc., Reliant Resources, Inc., Reliant Energy Power Generation, and Reliant Energy Services, Inc., Salt River Project Agricultural, Improvement and Power District San Diego Gas & Electric Company, Sempra Energy Trading Corporation, EL03–173–000, Sierra Pacific Power Company, Southern California Edison Company, TransAlta Energy Marketing (U.S.) Inc., and TransAlta Energy Marketing (California), Inc., Tucson Electric Power Company, Western Area Power Administration, Williams Energy Services Corporation

Take notice that on July 24, 2003, at 10 a.m., the Trial Staff of the Federal Energy Regulatory Commission will convene a plenary conference in the above-referenced case in Hearing Room 1 at the Commission, 888 1st Street, NE., Washington, DC 20426. Trial Staff requests that a representative from all ''Identified Entities'' named in the Commission's June 25, 2003, Order to Show Cause Concerning Gaming and/or Anomalous Market Behavior, have a representative present at this conference. Trial Staff further requests that any party who intervenes in the instant proceeding similarly have a representative present at this conference. Trial Staff notes at the outset that it will not deem any party (Identified Entity or intervenor) that attends the conference and who wishes to raise a claim of jurisdiction before the Commission as having waived that claim merely by attending the conference.

Trial Staff is convening this conference for several purposes. First, Trial Staff wants to share with all of the parties in the case the approach it intends to take to deal with each individual Identified Entity included within the Commission's order to show cause in this case. Similarly, Trial Staff seeks to insure that all intervenors are afforded the opportunity to play a reasonable role during the course of the case. In that regard, Trial Staff will meet with all intervenors at 2 p.m. on July 24 in Hearing Room 1.

At the conclusion of this notice, Trial Staff sets forth the name of each Identified Entity from the Commission's June 25, 2003 order and has, for the purposes of initial contact, divided those entities among the three Trial Staff attorneys assigned to this case. A number of these Identified Entities have already contacted members of the Trial Staff regarding the procedures Trial Staff is proposing to follow in the instant case. Some of the Identified Entities have sought meetings with the Trial Staff team and some have expressed a willingness to expeditiously resolve their potential liability. To the extent that any Identified Entity has not yet contacted the Trial Staff, they are urged to contact the Trial Staff attorney identified in this Notice prior to the July 24, 2003 plenary conference. Similarly, a point of contact for all intervenors is identified. Trial Staff specifically requests that, at a minimum, all Identified Entities and intervenors

provide Trial Staff in advance of the June 24, 2003 conference the name, address, telephone number, and e-mail address of a contact person for the purposes of this case.

Trial Staff is willing to meet with individual Identified Entities prior to the conference, at a break in the conference, or following the conference and the meeting with the intervenors. At this juncture, Trial Staff is not willing to discuss potential jurisdictional issues with individual parties or factual or legal questions more properly addressed in petitions for rehearing and/or clarification of the Commission's June 25, 2003 order. Rather, Trial Staff is interested in determining each Identified Entities' reaction to the calculations submitted by the California Independent System Operation (CAISO) and in determining each Identified Entities' willingness to expeditiously resolve the instant case. At a minimum, each Identified Entity should come to the July 24, 2003 conference with the ability to comment on the CAISO's analysis and on its own willingness to resolve the case.

The following Identified Entities should contact Trial Staff attorney Edith A. Gilmore at (202) 502–8632 or at *edith.gilmore@ferc.gov:* Aquila, Inc., Arizona Public Service Company, Bonneville Power Administration,California Dep't of Water Resources, Duke Energy Trading & Marketing, El Paso Power Services, Florida Power & Light, Idaho Power Company, Public Service Co. of Colorado, Puget Sound Energy, Reliant Resources, Inc. Sempra Energy Trading Corporation, Sierra Pacific Power Company, Western Area Power Admininstration.

The following Identified Entities should contact Trial Staff attorney Janet K. Jones at (202) 502–8165 or at *janet.jones@ferc.gov:* American Electric Power Services City of Anaheim, City of Azusa, City of Glendale, City of Pasadena, City of Redding, City of Riverside, Los Angeles Dep't of Water & Power, Mirant Americas Energy Marketing, Morgan Stanley Capital Group, Northern California Power Agency, PacifiCorp, Seattle City Light, Tucson Electric Power, Williams Energy Services Corporation, The following Identified Entities and all interested intervenors should contact Trial, Staff attorney Joel M. Cockrell at (202) 502–8153 or at *joel.cockrell@ferc.gov:*

Automated Power Exchange, Inc., California Power Exchange Cargill-Alliant, LLC, Coral Power, LLC, Dynegy Power Marketing, Inc., Enron Power Marketing, Inc., Modesto Irrigation District, Pacific Gas & Electric Company, PGE Energy Services, Portland General Electric Company, Powerex Corporation, Public Service Co. of New Mexico, Salt River Project, San Diego Gas & Electric Co., Southern California Edison Co. TransAlta Energy Marketing, Inc.

Magalie R. Salas,

Secretary.

[FR Doc. 03–17877 Filed 7–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–301–080]

ANR Pipeline Company; Notice of Material Deviation Filing

July 9, 2003.

Take notice that on July 1, 2003, ANR Pipeline Company (ANR), tendered a non-conforming service agreement with Aquila, Inc. for filing, and as part of its FERC Gas Tariff, Second Revised No. 1, the following tariff sheet:

Thirteenth Revised Sheet No. 190

ANR requested that the non-conforming agreement and the subject revised tariff sheet be accepted and approved effective as of July 1, 2003.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before the protest date as shown below. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: July 16, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–17895 Filed 7–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–412–002]

Central New York Oil and Gas Company, LLC; Notice of Compliance Filing

July 9, 2003.

Take notice that on July 3, 2003, Central New York Oil And Gas Company, LLC (CNYOG) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Fifth Revised Sheet No. 103, to be effective July 1, 2003.

CNYOG states that the purpose of its filing is to comply with the Commission's June 26, 2003 Letter Order in this proceeding which accepted CNYOG's revised tariff sheets as generally complying with Order No. 587–R and directed CNYOG to file revised tariff sheets deleting incorporation by reference of North American Energy Standards Board Wholesale Gas Quadrant Standard 4.3.4.

CNYOG further states that it has served copies of this filing upon the company's jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the

instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: July 15, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–17886 Filed 7–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–545–000]

Dominion Cove Point LNG, LP; Notice of Proposed Changes in FERC Gas Tariff

July 9, 2003.

Take notice that on July 2, 2003, Dominion Cove Point LNG, LP (Cove Point) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets to be effective August 1, 2003:

Second Revised Sheet No. 240
First Revised Sheet No. 241
Second Revised Sheet No. 242
First Revised Sheet No. 243
Second Revised Sheet No. 244
Second Revised Sheet No. 245
Second Revised Sheet No. 246
Second Revised Sheet No. 247
Third Revised Sheet No. 248
First Revised Sheet No. 249
Second Revised Sheet No. 250

Cove Point is proposing revisions to Section 10 of its General Terms and Conditions, Release and Assignment of Service Rights, that rationalize and streamline the provisions and more fully comply with the Commission's current policies regarding capacity release.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: July 14, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–17894 Filed 7–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–388–001]

Eastern Shore Natural Gas Company; Notice of Compliance Filing

July 9, 2003.

Take notice that on July 3, 2003 Eastern Shore Natural Gas Company (Eastern Shore) tendered as part of its FERC Gas Tariff, Second Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, effective July 1, 2003.

Eastern Shore states that the substitute revised tariff sheets are being submitted in compliance with the Commission's Letter Order issued June 27, 2003. The Commission's order directed Eastern Shore to file within twenty (20) days of such date revised tariff sheets which: (a) Reference Recommendation R02002 when incorporating by reference NAESB Standards 5.3.41, 5.3.42, and 5.3.46; (b) reference both Version 1.6 and Recommendations R02002 and R02002–2 when incorporating by reference NAESB Standards 1.4.4, 5.4.1, 5.4.3, 5.4.4, 5.4.7, and 5.4.9;

(c) refer to the NAESB assigned standard numbers when including standard 5.3.46 by reference; and (d) incorporate by reference standards 5.4.20 through 5.4.22.

Eastern Shore states that copies of its filing has been mailed to its customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: July 15, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–17884 Filed 7–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–361–001]

Florida Gas Transmission Company; Notice of Compliance Filing

July 9, 2003.

Take notice that on July 3, 2003, Florida Gas Transmission Company (FGT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets to become effective July 1, 2003:

Substitute Twelfth Revised Sheet No. 102B.
Substitute Eighth Revised Sheet No. 102C.
Substitute Original Sheet No. 173A.

FGT states that on March 12, 2003, in Docket No. RM96–1–024, the Commission issued Order No. 587–R (Order). In the Order, the Commission amended its regulations governing standards for partial day recalls. The Order adopts the most recent version, Version 1.6, of the consensus industry standards, promulgated by the Wholesale Gas Quadrant of the North American Energy Standards Board (NAESB). The Order required pipelines to make tariff filings by May 1, 2003 to implement provisions of the Order to become effective on July 1, 2003. FGT submitted its compliance filing on April 30, 2003. On June 25, 2003, the Commission issued an order accepting FGT's April 30, 2003 filing in Docket No. RP03–361–000 (''June 25 Order'') subject to FGT filing revisions to the above tariff sheets within fifteen days of

the order date. FGT states that the instant filing reflects revisions as directed by the June 25 Order.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with ¶ 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with ¶ 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: July 15, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–17882 Filed 7–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–153–005]

Horizon Pipeline Company, L.L.C.; Notice of Compliance Filing

July 9, 2003.

Take notice that on July 7, 2003, Horizon Pipeline Company, L.L.C. (Horizon) tendered for filing to become part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheets listed on Appendix A to the filing, to be effective December 1, 2003.

Horizon states that the purpose of this filing is to comply with the Commission's Order on Rehearing and Compliance Filing issued in Docket No. RP02–153 on June 4, 2003 (Order). No tariff changes other than those required by the Order are reflected in this filing.

Horizon states that copies of the filing are being mailed to all parties set out on the Commission's official service list in Docket No. RP02–153–000.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with ¶ 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with ¶ 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: July 21, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–17881 Filed 7–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT02–38–007]

Northern Natural Gas Company; Notice of Compliance Filing

July 9, 2003.

Take notice that on July 7, 2003, Northern Natural Gas Company (Northern), tendered for filing in its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, with an effective date of February 23, 2003:

2nd Substitute Third Revised Sheet No. 285.
2nd Substitute Original Sheet No. 285A.
Substitute Original Sheet No. 285B.
Substitute Sixth Revised Sheet No. 289.
Substitute Seventh Revised Sheet No. 289.

Northern states that the filing is being filed in compliance with the Commission's order issued on June 4, 2003 in this proceeding regarding the creditworthiness and capacity release provisions of Northern's tariff.

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: July 21, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–17878 Filed 7–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–398–000]

Northern Natural Gas Company; Notice of Technical Conference

July 9, 2003.

The Commission, in its order issued on May 30, 2003,[1] directed that a technical conference be held to address several of Northern's proposed revisions to its terms and conditions of services.

Take notice that a technical conference will be held on Tuesday, July 29, 2003 and Wednesday, July 30, 2003 at 10 am, in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

All interested parties and staff are permitted to attend.

Magalie R. Salas,

Secretary.

[FR Doc. 03–17885 Filed 7–15–03; 8:45 am]

BILLING CODE 6717–01–P

[1] Northern Natural Gas Company, 103 FERC § 61,266 (2003).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–419–001]

Southern Star Central Gas Pipeline, Inc.; Notice of Compliance Filing

July 9, 2003.

Take notice that on July 3, 2003 Southern Star Central Gas Pipeline, Inc. (Southern Star) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Substitute First Revised Sheet No. 289 and Substitute Original Sheet No. 291, to become effective July 1, 2003.

Southern Star states that the tariff sheets are being filed in compliance with the Commission's Letter Order dated June 25, 2003. Southern Star states that the substitute tariff sheets are being filed to correct various references to the appropriate Recommendation R02002 or R02002–2 regarding Version 1.6 of the Wholesale Gas Quadrant (WGQ) Standards and Data Sets of the North American Energy Standards Board (NAESB).

Southern Star further states that copies of the tariff sheets are being mailed to Southern Star's jurisdictional customers and interested state commissions, as well as those parties listed on the applicable service list.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with ¶ 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with ¶ 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: July 15, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–17887 Filed 7–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–451–001]

Southwest Gas Storage Company; Notice of Compliance Filing

July 9, 2003.

Take notice that on July 2, 2003, Southwest Gas Storage Company (Southwest) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Sub Fourth Revised Sheet No. 147, proposed to be effective July 1, 2003.

Southwest states that this filing is being made to comply with the Commission's Letter Order dated June 25, 2003 in Docket No. RP03–451–000.

Southwest states that copies of this filing are being served on all affected shippers, applicable state regulatory agencies and parties to this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: July 14, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–17890 Filed 7–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–544–000]

Texas Gas Transmission, LLC formerly Texas Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

July 9, 2003.

Take notice that on July 3, 2003, Texas Gas Transmission, LLC (Texas Gas), formerly Texas Gas Transmission Corporation, tendered for filing a proposed tariff sheet to its FERC Gas Tariff, First Revised Volume No. 1, as listed below, to be effective July 7, 2003:

Sixth Revised Sheet No. 234

Texas Gas states that it is filing the proposed changes to its General Terms and Conditions in order to clarify that it possesses the authority to bill taxes, levies, and other charges imposed on Customers by regulatory agencies or taxing authorities where Texas Gas is required by law to collect such amounts from Customer(s) and remit these amounts to the respective agencies or authorities.

Texas Gas states that copies of the revised tariff sheet are being mailed to all parties on Texas Gas's official service list, to Texas Gas's jurisdictional customers, and to interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the

instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: July 15, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–17893 Filed 7–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–376–001]

TransColorado Gas Transmission Company; Notice of Compliance Filing

July 9, 2003.

Take notice that on July 3, 2003, TransColorado Gas Transmission Company (TransColorado) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, certain tariff sheets, to be effective July 1, 2003.

TransColorado states that the purpose of this filing is to comply with the Commission's Letter Order issued on June 25, 2003, in Docket No. RP03–376–000.

TransColorado states that copies of the filing are being served on all parties set out on the Commission's official service list in Docket No. RP03–376–000.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with ¶ 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with ¶ 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: July 15, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–17883 Filed 7–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP03–320–000]

Transcontinental Gas Pipe Line Corporation; Notice of Application

July 9, 2003.

Take notice that on June 26, 2003, Transcontinental Gas Pipe Line Corporation (Transco), filed in Docket No. CP03–73–000 an application, in abbreviated form, pursuant to section 7(b) of the Natural Gas Act, as amended, and the Rules and Regulations of the Federal Energy Regulatory Commission, for an order permitting and approving abandonment of a transportation and exchange service provided to The Brooklyn Union Gas Company (Brooklyn Union) and Dominion Transmission, Inc (DTI) under Transco's Rate Schedule X–99 and a transportation service provided to Brooklyn Union, as more fully set forth in the application which is on file with the Commission and open to public inspection.

In such application, Transco states that it entered into an interruptible transportation and exchange agreement with Brooklyn Union and DTI, on July 1, 1975, under which Transco transports gas on an interruptible basis for Brooklyn Union, now doing business as KeySpan Energy Delivery New York, on an interruptible basis and exchanges gas with DTI, successor to Consolidated Gas Supply Corporation, under Rate Schedule X–99. Transco further states that it entered into an interruptible transportation agreement with Brooklyn Union on February 14, 1983, under which Transco transports gas, on an interruptible basis, for Brooklyn Union under Rate Schedule X–248.

In the instant application, Transco seeks authorization to abandon both the transportation and exchange agreement with Brooklyn Union and DTI and the transportation agreement with Brooklyn Union, effective on the date of the Commission's order authorizing the abandonments, pursuant to Brooklyn Union's and DTI's election to terminate their service agreements.

Transco states that the Primary Term of the service agreement under Rate Schedule X–99 ended on September 24, 1976. Transco further states that by letter dated January 9, 2001, Brooklyn Union and DTI provided Transco sufficient notice to terminate the subject agreement under Rate Schedule X–99 as of the date of the Commission's order authorizing the abandonment of service. Transco indicates that the Primary Term of the service agreement under Rate Schedule X–248 ended on January 21, 1983. Transco explains that, by letter dated April 28, 2003, Brooklyn Union provided Transco sufficient notice to terminate the subject service agreement under Rate Schedule X–248 as of the date of the Commission's order authorizing the abandonment of service.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.314 or 385.211 of the Commission's Rules and Regulations. All such motions and protests must be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: July 30, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–17876 Filed 7–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–429–001]

Transcontinental Gas Pipe Line Corporation; Notice of Compliance Filing

July 9, 2003.

Take notice that on July 3, 2003, Transcontinental Gas Pipe Line Corporation (Transco), tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No.1, Substitute Tenth Revised Sheet No.349 and Substitute First Revised Sheet No. 349A to which tariff sheets are proposed to be effective July 1, 2003.

Transco states that the purpose of this filing is to comply with the Commission's letter order issued June 26, 2003 in the referenced docket related to Transco's Order No. 587–R compliance filing submitted on May 1, 2003. Transco states that in the June 26 Order, the Commission found that Transco generally complied with the requirements of Order No. 587–R but required that Transco file revised tariff sheets to make certain changes to the WGQ standards that Transco incorporated in its tariff.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with ¶ 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with ¶ 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: July 15, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–17888 Filed 7–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–536–000]

Trunkline LNG Company, LLC; Notice of Tariff Filing

July 9, 2003.

Take notice that on July 1, 2003, Trunkline LNG Company, LLC., (Trunkline) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1-A, First Revised Sheet No. 5, to become effective August 1, 2003.

Trunkline states that the filing is being made in accordance with Section 19 (Fuel Reimbursement Adjustment) and Section 20 (Electric Power Cost Adjustment) of the General Terms and Conditions (GT&C) of Trunkline's FERC gAs Tariff, Second Revised Volume No. 1-A.

Trunkline states that copies of the filing are being served on all affected customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Intervention and Protest Date: July 14, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–17892 Filed 7–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–437–001]

WestGas InterState, Inc.; Notice of Compliance Filing

July 9, 2003.

Take notice that on July 3, 2003, WestGas InterState, Inc. (WGI) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet, with a proposed effective date of July 1, 2003:

Substitute Sixth Revised Sheet No. 92

WGI asserts that the purpose of this filing is to comply with the Letter Order issued in Docket No. RP03–437–000 on June 25, 2003. WGI states that the above tariff sheet has been revised to be in compliance with the Commission's Order No. 587-R and the Western Gas Quadrant Standards promulgated by the North American Energy Standards Board.

WGI further states that copies of this filing have been mailed to WGI's jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission

strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: July 15, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–17889 Filed 7–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–480–000]

Wyoming Interstate Company, Ltd.; Notice of Technical Conference

July 9, 2003.

The Commission, in its order issued June 18, 2003,[1] directed that a technical conference be held to investigate Wyoming's proposed tightening of the sulphur specifications in its tariff and to address the concerns raised in the protests of the parties.

Take notice that a technical conference will be held on Thursday, July 24, 2003, at 10 am, in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426.

All interested parties and staff are permitted to attend.

Magalie Salas,

Secretary.

[FR Doc. 03–17891 Filed 7–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

July 9, 2003.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of License to Reduce the Authorized Capacity, and Revise Project Boundary.

b. *Project No.:* 10395–025.

c. *Date Filed:* January 23, 2003.

d. *Applicant:* Electric Plant Board of the City of Augusta, KY.

e. *Name of Project:* Meldahl Project.

f. *Location:* The project is located at the U.S. Army Corps of Engineers' Captain Anthony Meldahl Locks and Dam on the Ohio River in Bracken County, Kentucky.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. James B. Price, Agent to the Electric Plant Board of the City of Augusta, KY, AJS Hydro Corp., PO Box 5550, Aiken, SC 29804, Tel: (865) 436–0402.

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Jake Tung at (202) 502–8757, or e-mail address: *hong.tung@ferc.gov*.

j. *Deadline for filing comments and or motions:* August 11, 2003.

k. Description of Amendment: The licensee proposes the following design changes: (1) Installing 105 small turbines and generators, instead of the licensed three large turbines and generators, resulting in a reduction in the authorized capacity from 105 MW to 68.7 MW, (2) placing seven transformers and switchgears, and (3) constructing a 2-mile-long transmission line, instead of the licensed 5.1-mile-long route. The change in project design is to install 105 smaller units that would be fitted in seven modules, each located in a gate bay of the existing dam. This installation eliminates construction of an intake and tailrace, in effect, avoiding dredging, excavation, and spoil disposal. The proposed transmission line alignment will be along an existing transmission line to the point of interconnection with an existing line of Kentucky Utilities. This proposed alignment would require the clearing of about 10 acres of land.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. 03–17879 Filed 7–15–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Request To Use Alternative Procedures in Preparing an Application for Exemption From Licensing

July 9, 2003.

Take notice that the following request to use alternative procedures to prepare an application for exemption from licensing has been filed with the Commission.

[1] Wyoming Interstate Company, Ltd., 103 FERC ¶ 61,334 (2003).

a. *Type of Application:* Request to use alternative procedures to prepare an application for exemption of a small hydroelectric power project from licensing.

b. *Project No.:* 11880–003.

c. *Date filed:* June 13, 2003.

d. *Applicant:* Colorado River Water Conservation District (River District).

e. *Name of Project:* Ritschard Dam Unit Water Power Project.

f. *Location:* On Muddy Creek, in Grand County, Colorado. The proposed project would occupy 557 acres of federal lands managed by the Bureau of Land Management.

g. *Filed Pursuant to:* Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2705, 2708.

h. *Applicant Contact:* James F. Pearce, Project Manager, Colorado River Water Conservation District, PO Box 1120, 201 Centennial Street, Suite 200, Glenwood Springs, CO 81602, (970) 945–8522.

i. *FERC Contact:* Dianne Rodman at (202) 502–6077; e-mail *dianne.rodman@ferc.gov*.

j. *Deadline for Comments:* 30 days from the date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

k. The existing 120-foot-high, 2,100-foot-long Ritschard dam impounds the Wolford Mountain reservoir, which has a normal surface area of 1,550 acres and a storage volume of 65,985 acre-feet. The proposed powerhouse would be located at the toe of the dam next to the existing control house/terminal structure. The powerhouse would contain a single turbine and generator with a rated capacity of about 870 kilowatts. The average annual power generation would be 3,700 kilowatt-hours.

l. A copy of the request to use alternative procedures is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/esubscribenow.htm* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

m. The River District has demonstrated that it has made an effort to contact all federal and state resources agencies, non-governmental organizations (NGO), and others affected by the project. The River District has also demonstrated that a consensus exists that the use of alternative procedures is appropriate in this case. The River District has submitted a communications protocol that is supported by the stakeholders.

The purpose of this notice is to invite any additional comments on the River District's request to use the alternative procedures, pursuant to Section 4.34(i) of the Commission's regulations. Additional notices seeking comments on the specific project proposal, interventions and protests, and mandatory terms and conditions will be issued at a later date. The River District will complete and file a preliminary Environmental Assessment, in lieu of Exhibit E of the exemption application. This differs from the traditional process, in which an applicant consults with agencies, Indian tribes, NGOs, and other parties during preparation of the exemption application and before filing the application, but the Commission staff performs the environmental review after the application is filed. The alternative procedures are intended to simplify and expedite the exemption process by combining the pre-filing consultation and environmental review processes into a single process, to facilitate greater participation, and to improve communication and cooperation among the participants.

The River District intends to file 6-month progress reports during the alternative procedures process that leads to the filing of an exemption application by February 2005.

Magalie R. Salas,

Secretary.

[FR Doc. 03–17880 Filed 7–15–03; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7527–7]

Notice of the 2003 Clean Air Excellence Awards Program

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) established the Clean Air Excellence Awards Program in February, 2000. This is an annual awards program to recognize outstanding and innovative efforts that support progress in achieving clean air. This notice announces the competition for the Year 2003 program.

Awards Program Notice: Pursuant to 42 U.S.C. 7403(a)(1) and (2) and sections 103(a)(1) and (2) of the Clean Air Act (CAA), notice is hereby given that the EPA's Office of Air and Radiation (OAR) announces the opening of competition for the Year 2003 ''Clean Air Excellence Awards Program'' (CAEAP). The intent of the program is to recognize and honor outstanding, innovative efforts that help to make progress in achieving cleaner air. The CAEAP is open to both public and private entities. Entries are limited to the United States. There are six award categories: (1) Clean Air Technology; (2) Community Development/Redevelopment; (3) Education/Outreach; (4) Regulatory/Policy Innovations; (5) Transportation Efficiency Innovations; and (6) Outstanding Individual Achievement Award. Awards are recognition only and are given on an annual basis.

Entry Requirements and Deadline: All applicants are asked to submit their entry on a CAEAP entry form, contained in the CAEAP Entry Package, which may be obtained from the Clean Air Act Advisory Committee (CAAAC) Web site at *http://www.epa.gov/oar/caaac* and click on Awards Program or by contacting Mr. Paul Rasmussen, U.S. EPA at 202–564–1306 or 202–564–1352 (Fax), mailing address: Office of Air and Radiation (6102A), 1200 Pennsylvania Avenue, NW., Washington, DC 20004. The entry form is a simple, three-part form asking for general information on the applicant and the proposed entry; asking for a description of why the entry is deserving of an award; and requiring information from three (3) independence references for the proposed entry. Applicants should also submit additional supporting documentation as necessary. Specific directions and information on filing an entry form are included in the Entry Package available through the directions

above. The deadline for all submission of entries is September 10, 2003.

Judging and Award Criteria: Judging will be accomplished through a screening process conducted by EPA staff, with input from outside subject experts, as needed. A workgroup of the CAAAC will provide advice to EPA on the entries. The final award decision will be made by the EPA Assistant Administrator for Air and Radiation. Entries will be judged using both general criteria and criteria specific to each individual category. There are four (4) general criteria: (1) The entry directly or indirectly (*i.e.,* by encouraging actions) reduces emissions of criteria pollutants or hazardous /toxic air pollutants; (2) The entry demonstrates innovation and uniqueness; (3) The entry provides a model for others to follow (*i.e.,* it is replicable); and (4) The positive outcomes from the entry are continuing/sustainable. Although not required to win an award, the following general criteria will also be considered in the judging process: (1) The entry has positive effects on other environmental media in addition to air; (2) The entry demonstrates effective collaboration and partnerships; and (3) The individual or organization submitting the entry has effectively measured/evaluated the outcomes of the project, program, technology, etc. As mentioned above, additional criteria will be used for each individual award category. These criteria are listed in the 2003 Entry Package.

FOR FURTHER INFORMATION CONTACT: Concerning this new awards program please use the CAAAC Web site cited above or contact Paul Rasmussen at the telephone and address cited above.

Dated: July 7, 2003.

Robert Brenner,

Principal Deputy Assistant Administrator for Air and Radiation.

[FR Doc. 03–17874 Filed 7–15–03; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL –7528–2]

Science Advisory Board; Notification of an Upcoming Meeting of the Multimedia, Multipathway, and Multireceptor Risk Assessment; (3MRA) Modeling System Panel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Science Advisory Board Staff Office (SAB) announces an upcoming teleconference meeting of the Multimedia, Multipathway, and Multireceptor Risk Assessment (3MRA) Modeling System Panel at which the Panel will plan its review.

DATES: The teleconference meeting will take place on July 21, 2003 from 1 p.m. to 4 p.m. (Eastern Time).

ADDRESSES: Participation in the teleconference will be by telephone only.

FOR FURTHER INFORMATION CONTACT: To obtain the call-in number and access code required to participate in the teleconference, contact Ms. Sandra Friedman, EPA Science Advisory Board Staff, at (202) 564–2526 or via e-mail at *friedman.sandra@epa.gov.* Those wishing further information about the Panel may contact Ms. Kathleen White, Designated Federal Officer (DFO), EPA Science Advisory Board at (202) 564–4559 or via e-mail at *white.kathleen@epa.gov.* General information concerning the EPA Science Advisory Board can be found on the SAB Web site at: *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION:

Background: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Multimedia, Multipathway, and Multireceptor Risk Assessment (3MRA) Modeling System Panel of the U.S. EPA Science Advisory Board (SAB) will meet to plan its review of EPA's Multimedia, Multipathway, and Multireceptor Risk Assessment (3MRA) Modeling System.

The panel was charged with responding to questions concerning the modeling system. These questions were published in a **Federal Register** Notice on April 11, 2003 (68 FR 17797–17800). More information regarding this review can be found at the SAB Web site at *http://www.epa.gov/sab/panels/3mramspanel.html.* The review documents provide and background information will be made available at *http://www.epa.gov/epaoswer/hazwaste/id/hwirwste/risk.htm* when they become available.

Individuals who are unable to access the documents electronically may contact Mr. Stephen Kroner of the Office of Solid Waste at 703 308–0468 or via e-mail at *kroner.stephen@epa.gov* to make other arrangements. A very limited number of paper copies can be made available in special circumstances.

The purpose of this meeting is to allow contemporaneous public access to the Panel's introduction to the review, discussion of the charge, and preliminary organization for the review. Most of the review will be conducted at two face-to-face meetings currently planned for late August and late October, 2003. A copy of the draft agenda for the Teleconference will be posted on the SAB Web site (*www.epa.gov/sab*) (under the AGENDAS subheading) approximately 7 days before the meeting.

Providing Oral or Written Comments at SAB Meetings: It is the policy of the EPA Science Advisory Board (SAB) to accept written public comments of any length, and to accommodate oral public comments whenever possible. The EPA SAB expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements.

Oral Comments: In general, each individual or group requesting an oral presentation at a face-to-face meeting will be limited to a total time of ten minutes (unless otherwise indicated) and no more than one hour total for all speakers. For teleconference meetings, opportunities for oral comment will usually be limited to no more than two minutes per speaker and no more than ten minutes total for all speakers. Interested parties should contact the DFO at least one week prior to the meeting in order to be placed on the public speaker list for the meeting. Speakers may attend the meeting and provide comment up to the meeting time. Speakers should bring at least 35 copies of their comments and presentation slides for distribution to the reviewers and public at the meeting.

Written Comments: Although the SAB accepts written comments until the date of the meeting (unless otherwise stated), written comments should be received in the SAB Staff Office at least one week prior to the meeting date so that the comments may be made available to the review panel for their consideration. Comments should be supplied to the DFO at the address/contact information noted in the opening of this notice in the following formats: one hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat, WordPerfect, Word, or Rich Text files (in IBM–PC/Windows 95/98 format). Those providing written comments and who attend the meeting are also asked to bring 35 copies of their comments for public distribution. Should comment be provided at the meeting and not in advance of the meeting, they should be in-hand to the DFO up to and immediately following the meeting. The SAB allows a grace period of 48 hours

after adjournment of the public meeting to provide written comments supporting any verbal comments stated at the public meeting to be made a part of the public record.

Meeting Access: Individuals requiring special accommodation at this meeting, including wheelchair access to the conference room, should contact Ms. Sandra Friedman, *friedman.sandra@epa.gov* or by telephone/voice mail at (202) 564–2526 at least five business days prior to the meeting date so that appropriate arrangements can be made.

Dated: July 9, 2003.

Vanessa T. Vu,

Director, EPA Science Advisory Board.

[FR Doc. 03–18004 Filed 7–15–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2003–0205; FRL–7312–7]

Chlorfenapyr; Notice of Filing a Pesticide Petition to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket ID number OPP–2003–0205, must be received on or before August 15, 2003.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Ann Sibold, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–6502; e-mail address: sibold.ann@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are a commercial processor of food, or use pesticides to control pests in food processing operations. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS 111)
- Animal production (NAICS 112)
- Food manufacturing (NAICS 311)
- Pesticide manufacturing (NAICS 32532)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *EPA Docket.* EPA has established an official public docket for this action under docket ID number OPP–2003–0205. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although, a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at http://www.epa.gov/fedrgstr/.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA dockets. You may use EPA Dockets at http://www.epa.gov/edocket/ to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although, not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although, not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or on paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper

receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically*. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also, include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at http://www.epa.gov/edocket, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPP–2003–0205. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

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3. Provide copies of any technical information and/or data you used that support your views.

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5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 2, 2003.

Debra Edwards,

Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by FFDCA section 408(d)(3). The summary of the petition was prepared by BASF Corporation and represents the view of the petitioner. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the

pesticide chemical residues or an explanation of why no such method is needed.

BASF Corporation

PP 3F6560

EPA has received a pesticide petition (PP 3F6560) from BASF Corporation, 26 Davis Drive, Research Triangle Park, NC 27709–3528 proposing, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180, by establishing a tolerance for residues of chlorfenapyr, [4-bromo-2-(4-chlorophenyl)-1-(ethoxymethyl)-5-(trifluoromethyl)-1H-pyrrole-3-carbonitrile] on all food items in food handling establishments where food products are held, processed, and/or prepared at 0.01 parts per million (ppm). EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. The nature of the residues of chlorfenapyr in plants (tomato, citrus, potato and head lettuce) is adequately understood and the residue of concern consists of the parent molecule. The metabolic pathway of chlorfenapyr in the laying hen and the lactating goat was also similar to that in laboratory rats.

2. *Analytical method*. The GC analytical method, M 2398, which is proposed as the enforcement method for the residue of chlorfenapyr in or on food commodities, has a limit of quantitation (LOQ) of 0.01 ppm.

3. *Magnitude of residues*. A study, based on protocol recommendations outlined in EPA's Residue Chemistry Test Guidelines, (OPPTS Harmonized Test Guideline 860.1460: Food Handling), was conducted with chlorfenapyr formulated as a 24% wettable powder.

Applications were made to all potential sites within a commercial kitchen, including the perimeter of the restaurant kitchen, areas under cabinets and overhead cabinets, behind and on sides of cabinets and appliances, within the ceiling voids, and around pipes, cords, cables, counter legs, and wheels. The areas in which the product was applied are typical of those treated in a professional pest control operation in a commercial kitchen.

The test was conducted using a wettable powder (WP) formulation at the maximum label rate for indoor use of 0.5% active ingredient (a.i.)/1,000 ft^2, which is also the approved maximum rate for indoor use in non-food/feed areas for the SC formulation (suspension in water), EPA Registration No. 241–392. The WP formulation has a larger particle size and will be more easily dispersed than the SC formulation, and therefore will best characterize the potential for exaggerated exposures to food items.

Results from this study were that magnitudes of residues in all composite meal samples, both covered and uncovered, were below the LOQ of 10 parts per billion (ppb). Thus, there is a reasonable expectation that no finite residues of chlorfenapyr will result in food items following crack and crevice or spot applications of either the 25% wettable powder or the 21% suspension concentrate.

B. Toxicological Profile

The toxicity of chlorfenapyr has been studied extensively and there is a complete data base to address the acute and chronic effects, effects on genetic material, the potential for carcinogenicity or teratogenicity, and effects on reproductive performance or growth of offspring. Toxicological data submitted previously that support this petition for tolerances of chlorfenapyr include:

1. *Acute toxicity*. Based on EPA's toxicity category criteria, the acute toxicity category for chlorfenapyr technical, EPA Registration No. 241–366, is Category II or moderately toxic (signal word WARNING) and the acute toxicity category for the 2SC formulation, EPA Registration Nos. 241–374 and 241–392, is Category III or slightly toxic (signal word CAUTION). Males appear to be more sensitive to the effects of chlorfenapyr than females. The acute toxicity profile indicates that absorption by the oral route appears to be greater than by the dermal route. The following are the results from the acute toxicity tests conducted on the technical material.

i. Rat Oral, LD_{50} of 441/1,152 milligrams/kilogram body weight (mg/kg bwt) modifying factor (M/F) - Toxicology Category II.

ii. Rabbit Dermal LD_{50}: >2,000 mg/kg bwt M/F Toxicology Category III.

iii. Acute Inhalation LC_{50}: 0.83/ >2.7 milligrams per liter (mg/L) M/F Toxicology Category III.

iv. Eye irritation: Moderately irritating - Toxicology Category III.

v. Dermal irritation: Non-irritating - Toxicology Category IV.

vi. Dermal sensitization: Non-sensitizer - Non sensitizer.

vii. Acute neurotoxicity: NOEL 45 mg/kg bwt. Not an acute neurotoxicant

2. *Genotoxicity*. Chlorfenapyr technical (94.5%) was examined in a battery of *in vitro* and *in vivo* tests to assess its genotoxicity and its potential for carcinogenicity. These tests are summarized below.

i. Microbial/Microsome Mutagenicity Assay: Non-mutagenic.

ii. Mammalian Cell CHO/HGPRT Mutagenicity Assay: Non-mutagenic.

iii. *In vivo* Micronucleus Assay: Non-genotoxic.

iv. *In vitro* Chromosome Aberration Assay in CHO: Non-clastogenic.

v. *In vitro* Abberation Assay in CHLC: Non-clastogenic.

vi. Unscheduled DNA Synthesis (UDS) Assay: Non-genotoxic.

3. *Reproductive and developmental toxicity*. Reproductive and developmental toxicity. Chlorfenapyr is neither a reproductive nor developmental toxicant and is not a teratogenic agent in the Sprague-Dawley rat or the New Zealand white rabbit. This is demonstrated by the results of the following studies:

i. *Rat oral teratology*. No observed effect level (NOEL) for maternal toxicity 25 mg/kg bwt/day and NOEL for fetal/developmental toxicity at 225 mg/kg bwt/day.

ii. *Rabbit oral teratology*. NOEL for maternal 5 mg/kg bwt/day and NOEL for fetal/developmental toxicity 30 mg/kg bwt/day.

iii. *Rat 2-generation reproduction*. NOEL for parental toxicity/growth and offspring development 60 parts per million (ppm) (5 mg/kg bwt/day) and NOEL for reproductive performance 600 ppm (44 mg/kg bwt/day)

4. *Subchronic toxicity*. The following are the results of the subchronic toxicity test that have been conducted with chlorfenapyr.

i. 28–Day rabbit dermal - NOEL 100 mg/kg bwt/day.

ii. 28–Day rat feeding - NOEL <600 ppm (<71.6 mg/kg bwt/day).

iii. 28–Day mouse feeding - NOEL <160 ppm (<32 mg/kg bwt/day).

iv. 13–Week rat dietary - NOEL 150 ppm (11.7 mg/kg bwt/day).

v. 13–Week mouse dietary - NOEL 40 ppm (8.2 mg/kg bwt/day).

vi. 13–Week dog dietary - NOEL 120 ppm (4.2 mg/kg bwt/day).

5. *Chronic toxicity*. Chlorfenapyr is not oncogenic in either Sprague-Dawley rats or CD-1 mice and is not likely to be carcinogenic in humans. The following are the results of the chronic toxicity tests that have been conducted with chlorfenapyr:

i. 1–Year neurotoxicity in rats. No observed adverse effect level (NOAEL) 60 ppm (2.6/3.4 mg/kg bwt/day M/F).

ii. 1–Year dog dietary. NOAEL 120 ppm (4.0/4.5 mg/kg bwt/day M/F).

iii. 24–Month rat dietary. NOAEL for chronic effects 60 ppm (2.9/3.6 mg/kg bwt/day M/F and NOAEL for oncogenic effects 600 ppm (31/37 mg/kg bwt/day M/F).

iv. 18–Month mouse dietary - NOAEL for chronic effects 20 ppm (2.8/3.7 mg/kg bwt/day M/F and NOEL for Oncogenic Effects 240 ppm (34.5/44.5 mg/kg bwt/day M/F).

6. *Animal metabolism*. A metabolism study was conducted in Sprague-Dawley rats at approximately 20 and 200 mg/kg bwt using radiolabeled chlorfenapyr. Approximately 65% of the administered dose was eliminated during the first 24 hours (62% in feces and 3% in urine) and by 48 hours following dosing, approximately 85% of the dose had been excreted (80% in feces and 5% in urine.) The absorbed chlorfenapyr-related residues were distributed throughout the body and detected in tissues and organs of all treatment groups. The principal route of elimination was via feces, mainly as unchanged parent plus minor N-dealkylated, debrominated, and hydroxylated oxidation products. The metabolic pathway of chlorfenapyr in the laying hen and the lactating goat was also similar to that in laboratory rats.

7. *Metabolite toxicology*. The parent molecule is the only moiety of toxicological significance in plant and animal commodities.

8. *Endocrine disruption*. Collective organ weights and histopathological findings from the 2-generation rat reproduction study, as well as from the subchronic and chronic toxicity studies in two or more animal species, demonstrate no apparent estrogenic effects or effects on the endocrine system. There is no information available which suggests that chlorfenapyr would be associated with endocrine effects.

C. Aggregate Exposure

1. *Dietary exposure*. Based on the completeness and reliability of the toxicity data and the exposure assessment conducted, BASF concludes that there is a reasonable certainty that no harm will result from aggregate exposure to chlorfenapyr, including all dietary exposure.

i. *Food*. There are currently no established U.S. permanent food tolerances for chlorfenapyr. There are two tolerance petitions pending at EPA; 0.5 ppm tolerance on imported citrus and 1.5 ppm tolerance on greenhouse grown vegetable, fruiting, crop group 8. A dietary exposure estimate based on theoretical maximum residue contribution (TMRC) was conducted using the Dietary Exposure Evaluation Model (DEEM™) The TMRC is a ''worst case'' estimate for dietary exposure because it assumes that 100% of crop is treated and residues in the food are always found at the tolerance level. Additional assumptions used were all consumption of tomatoes-whole is from treated greenhouse grown tomatoes, greenhouse grown tomatoes are not processed, and all citrus juice in the U.S. is made from treated imported citrus pulp. Default processing factors were used to determine concentrations in processed fractions. The tolerance levels used in the dietary assessment were 0.5 ppm for citrus pulp, 1.5 ppm for vegetable, fruiting, group 8, and 0.01 ppm for all other crops.

a. *Acute exposure*. The acute RfD used for this evaluation was 0.45 mg/kg bwt calculated by applying the 100–fold safety factor to the NOEL from the acute neurotoxicity evaluation of chlorfenapyr. The acute exposure was evaluated at the 99.9th percentile. The most highly exposure sub-population was non-nursing infants (<1 yr old) which utilized 16.2% of the acute RfD. Therefore, based on the exposure assessment discussed above, BASF concludes there is a reasonable certainty that no harm will result from the acute dietary exposure to chlorfenapyr residues.

b. *Chronic exposure*. The chronic RfD used for this evaluation was 0.03 mg/kg bwt calculated by applying a 100–fold safety factor to the NOAEL from 1–year rat neurotoxicity study and the chronic feeding studies in the rat and mouse. The most highly exposure subpopulation was children 1–6 years of age which utilized 19.8% of the chronic RfD. Therefore, based on the exposure assessment discussed above, BASF concludes there is a reasonable certainty that no harm will result from the chronic dietary exposure to chlorfenapyr residues.

ii. *Drinking water*. There is no concern for exposure to residues of chlorfenapyr in drinking water based on the approved, pending and proposed directions for use and its physical and chemical properties. Approved uses in the U.S. include applications to ornamental plants inside greenhouses, to a narrow band of soil adjacent to buildings and to crack-and-crevice and spot treatments inside structures. A pending use expands greenhouse applications to vegetable, fruiting, crop group 8. The proposed use for food handling areas is also applied as a crack-and-crevice and spot treatment inside structures. Chlorfenapyr has extremely low water solubility (120 ppb at 25 °C)and is also immobile in soil and does not leach because it is strongly adsorbed to all common soil types.

2. *Non-dietary exposure*. Non-dietary exposure to chlorfenapyr is expected to be negligible based on assessments made by EPA for the approved use on ornamentals grown in greenhouses, as a termiticide and for indoor applications for general pest control. These assessments were based on the physico-chemical characteristics of the compound, the intended use pattern, and available information concerning its environmental fate. The vapor pressure of chlorfenapyr is less than 1×10^{-7} mm of mercury (Hg); therefore, the potential for non-occupational exposure by inhalation is insignificant. These assessments also apply to the pending use on greenhouse grown vegetable, fruiting, crop group 8 and the proposed use in food handling areas.

D. Cumulative Effects

The pyrrole insecticides represent a new class of chemistry with a unique mechanism of action. No other data are available that indicate that any toxicological effects produced by chlorfenapyr would be cumulative with those of any other compound.

The parent molecule, chlorfenapyr is a pro-insecticide that is converted to the active form, CL 303,268, via rapid metabolism by mixed function oxidases (MFOs). The active form uncouples oxidative phosphorylation in the insect mitochondria by disrupting the proton gradient across the mitochondrial membrane. The production of ATP is inhibited resulting in the cessation of all cellular functions. Because of this unique mechanism of action, it is highly unlikely, that toxic effects produced by chlorfenapyr would be cumulative with those of any other pesticide chemical.

In mammals, there is a lower titer of MFOs, and chlorfenapyr is metabolized by different pathways (including dehalogenation, oxidation and ring hydroxylation) to other polar metabolites without any significant accumulation of the potent uncoupler, CL 303,268. In the rat, approximately 85% of the administered dose is excreted in the feces within 48 hours, thereby reducing the levels of chlorfenapyr and CL 303,268 that are capable of reaching the mitochondria. This differential metabolism of chlorfenapyr to CL 303,268 in insects versus to other polar metabolites in mammals is responsible for the selective insect toxicity of the pyrroles.

E. Safety Determination

1. *U.S. population.* Using the exposure assumptions described above, BASF has estimated that chronic dietary aggregate exposure to chlorfenapyr for the U.S. population was 0.002615 mg/kg bwt/day or 8.7% of the chronic RfD of 0.03 mg/kg bwt/day. Other than children less than 12 years of age, hispanics are the U.S. population subgroup with the highest chronic exposure of 0.003403 mg/kg bwt/day, or 11.3% of the RfD. EPA has no concerns about exposure that are less than 100% of the RfD as the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. It is therefore, safe to conclude that there is reasonable certainty that no harm to the overall U.S. population will result from chronic exposure to chlorfenapyr residues.

2. *Infants and children.* Using the exposure assumption described above, BASF has estimated that the chronic dietary aggregate exposure to chlorfenapyr for children 1–6 years of age was 0.005936 mg/kg bwt/day, or 19.8% of the chronic RfD of 0.03 mg/kg bwt/day. Children 1–6 years of age were the sub-population that utilized the largest portion of the chronic RfD. It is therefore, safe to conclude that there is reasonable certainty that no harm to infants and children will result from chronic exposure to chlorfenapyr residues.

F. International Tolerances

No Codex or Canadian tolerances/limits for residues in any food presently exist for chlorfenapyr. In Mexico there is a MRL of 0.3 ppm for cottonseed.

[FR Doc. 03–17900 Filed 7–15–03; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2003–0235; FRL–7317–4]

Gellan Gum; Notice of Filing a Pesticide Petition to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket identification (ID) number OPP–2003–0235, must be received on or before August 15, 2003.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Kathryn Boyle, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–6304; e-mail address: *boyle.kathryn@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111)
- Animal production (NAICS code 112)
- Food manufacturing (NAICS code 311)
- Pesticide manufacturing (NAICS code 32532)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket ID number OPP–2003–0235. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

Certain types of information will not be placed in EPA's Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is

restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

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II. What Action is the Agency Taking?

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this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 7, 2003.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner's summary of the pesticide petition is printed below as required by FFDCA section 408(d)(3). The summary of the petition was prepared by the petitioner and represents the view of the petitioner. The summary may have been edited by EPA if the terminology used was unclear, the summary contained extraneous material, or the summary unintentionally made the reader conclude that the findings reflected EPA's position and not the position of the petitioner. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

CP Kelco

PP 3E6567

EPA has received a pesticide petition (PP 3E6567) from CP Kelco, 8355 Aero Drive, San Diego, CA 92123, proposing pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180 to establish an exemption from the requirement of a tolerance for gellan gum (CAS Reg. No. 71010–52–1) in or on all raw agricultural commodities (RAC) when used as a sticker/thickener in seed treatment and pesticide formulations. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism.* As a polysaccharide polymer, gellan gum is non-systemic and therefore no metabolism of gellan gum in raw agricultural commodities or processed commodities is expected.

2. *Analytical method.* Analytical methods for determination of the polysaccharide polymer, gellan gum are available. Gellan gum is determined by the dissolution of gellan gum containing gels by heating and cooling in the presence of a dilute sequestrant solution (e.g. 0.1% w/v sodium hexametaphosphate). The gellan gum assay is based upon the presence of the 6-deoxyhexose rhamnose which can be determined using the cysteine-sulfuric acid procedure, originally developed by Dische and Shettles and modified by Graham.

3. *Magnitude of residues.* Gellan gum is applied as a minor component of pesticidal formulations. Gellan gum degrades into simple non-toxic sugars and their salts.

B. Toxicological Profile

1. *Acute toxicity.* The acute toxicity of gellan gum was studied using male and female rats via the oral and inhalation routes. In the acute oral toxicity study, the lethal dose $(LD)_{50}$ for both males and females was established at >5,000 milligrams/kilogram body weight (mg/kg bwt). For the acute inhalation toxicity study, the LD_{50} for both males and females was established at >5.09 milligrams/Liter (mg/L). Gellan gum is practically non-toxic to rats when administered as a single large dose (5 g/kg bwt) in diet or via gavage.

2. *Genotoxicity.* Gellan gum was shown to be non-genotoxic in a battery of standard short-term tests. The Ames test, involving *S. typhimurium* at 10, 30, 100, 300, and 1,000 µg/plate resulted in a negative response. A deoxyribonucleic acid (DNA) repair test using the rat hepatocyte as a test subject at 3, 5, 10, and 20 milligrams/liter (mg/L) resulted in a negative response. For the V–79/hypoxanthine guanine phophoribosyl transferase/(HGPRT) study, involving the Chinese hamster lung fibroblasts, doses at 3, 5, 10, and 20 mg/mL resulted in a negative response.

3. *Reproductive and developmental toxicity.* Groups of 26 male and female CD (Sprague-Dawley) rats were administered gellan gum in their diets at doses of 0, 2.5, 3.8, or 5.0%. Males were treated for 70 days prior to mating and for 3 weeks after mating. Females were treated for 14 days prior to mating and throughout mating, gestation, and lactation. Selection was made for the pups (F_1) of this mating and they were allowed to mature and were mated to form the F_2 generation. There was no treatment-related effect of mating or fertility index, conception rate, length of gestation, length or parturition, number of live pups, number of dead pups, post-implantation loss index, survival index on day 4, 7, 14, or 21 or lactation index for any of the generations.

For teratology studies, gellan gum was fed to groups of 25 pregnant female Sprague-Dawley rats at dietary levels of 0, 2.5, 3.8, or 5.0% during days 6–15 of gestation. Gellan gum has no fetotoxic or teratogenic effects on rats when ingested in the diet at levels up to 5.0%. In the reproduction and teratogenic studies in rats in which gellan gum was given at doses up to 50 g/kg in the diet, there was no evidence of interference with the reproductive process, and no embryotoxic or developmental effects were observed.

4. *Subchronic toxicity.* For short-term studies, male and female Sprague-Dawley rats (20/sex/group) were fed dietary levels of gellan gum ranging from 0–6% for 13 weeks. Although the animals on this study experienced symptoms of a sialodacryoadenitis viral infection, all animals survived treatment and there were no adverse effects associated with the feeding of gellan gum at levels up to 60 gram/kilogram (g/kg). Also, prepubertal rhesus monkeys (2/sex/group) were dosed by oral gavage with gellan gum at levels of 0, 1, 2, or 3 g/kg/day for 28 days. There were no overt signs of toxicity reported at levels up to 50 g/kg in the diet.

5. *Chronic toxicity.* Groups of 50 male and female Swiss Crl mice were fed gellan gum admixed in the diet at 0, 1.0, 2.0, and 3.0% for 96 and 98 weeks for males and females, respectively. All animals were examined twice daily for mortality and morbidity. Physical examination for the presence of palpable masses was initiated on a weekly basis starting in week 26. Body weights and food consumption were measured for 7–day periods on a weekly basis for the first 26 weeks of treatment and every 2 weeks thereafter. At necropsy, a complete gross pathological examination was performed on the animals from the control and 3.0% groups. Only the liver, kidneys, ovaries, testes, adrenals, pituitary, lungs, and heart were examined for animals of the 1.0 and 2.0% groups. There were no effects attributable to the feeding of gellan gum on either body weight gain or food consumption. There were no neoplastic or non-neoplastic changes which were associated with the feeding of gellan gum.

For the rat, groups of 50 F_1 generation Sprague-Dawley rats of each sex were exposed to gellan gum *in utero* and continued on gellan gum diets for approximately 104 weeks. The dietary levels of gellan gum were 0, 2.5, 3.8, and 5.0%. The rats were observed daily for

the first 4 weeks of treatment and weekly thereafter for clinical signs of toxicity. Individual bodyweights and food consumption were measured on a weekly basis for the first 26 weeks of treatment and every 2 weeks thereafter. Fundoscopic and biomicroscopic examinations were conducted on the control and 5% groups during weeks 1, 13, 26, 52, 78, and 103. Clinical chemistry and haematological samples were collected at weeks 13, 25, 39, and 51. After 104 weeks, ophthalmoscopic examinations, haematology, clinical chemistries and organ weight data revealed no changes which could be attributed to the feeding of gellan gum. Survival of male treated rats was poor when compared to controls whereas female treated rats exhibited better survival than their concurrent controls. Male rats, fed gellan gum at the 3.8 and 5.0% dietary levels, exhibited lower body weights after 76 weeks. The initial bodyweights were 5.2 and 3.4% lower than the control values for the 3.8 and 5.0% dietary levels, respectively. It was concluded that in spite of the initial body weight deficit, the growth pattern for these treated groups was identical to that of the control. In addition, this effect was not seen in either the females or any other species tested. There is no basis to suggest that the lower body weights, observed in the male rats, are indicative of toxicity. Organs and tissues as those listed in the mouse study were examined for histopathological changes at study termination. There were no neoplastic or non-neoplastic changes that could be associated with the feeding of gellan gum. The authors concluded that gellan gum is non-carcinogenic to Sprague-Dawley rats.

For chronic toxicity study on dogs, diets containing 0, 3, 4.5, and 6% gellan gum were fed to groups of 5 Beagle dogs per sex for a period of 52 weeks. The dogs were observed daily for clinical signs of toxicity and were measured for body weights and food consumption. Ophthalmoscopic examinations were performed during pretreatment and after 12, 24, 29, and 51 weeks. Hematology and clinical chemistry were measured during pretreatment and after 6, 13, 25, 39, and 50 weeks. After 52 weeks all animals were killed and grossly examined. All animals survived treatment. Food intake was higher in the treated groups compared to the controls. There were no adverse effects associated with the feeding of gellan gum to beagle dogs for a period 1–year.

6. *Animal metabolism*. The adsorption, distribution, and excretion of gellan gum was studied using a dually radiolabeled (^{3}H and ^{14}C) preparation. The use of dual labeling allowed simultaneous quantitation of both polysaccharide and ''protein'' fractions of gellan gum.

One male and one female Sprague-Dawley rat were gavaged with single doses of the $^{3}H/^{14}C$-gellan gum (ca. 960 mg/kg; ca. 4 µCi). Expired air was collected 24 hours after dosing. Less than 0.55% of the given radioactivity was detected as ^{14}C.

Four male and three female Sprague-Dawley rats were dosed with single gavage dose of $^{3}H/^{14}C$–gellan gum (ca. 870 mg/kg; 2.9 - 4.1 µCi ^{14}C; 0.7 - 0.9 µCi ^{3}H). Urine and feces were collected for 7 days, at which time the animals were sacrificed and their tissues analyzed for residual radioactivity. Females excreted 86.8% and 1.9% of the given ^{14}C in the feces and urine, respectively. Males excreted 86% of the dosed ^{14}C in the feces and 3.3% in the urine. Females excreted 4.1% of the dosed ^{3}H in their urine and 100.1% in their feces, while males excreted 3.6% of the total ^{3}H in their urine and 99.6% in their feces. In all animals, the activities of ^{3}H in tissues (blood, brain, liver, kidney, lung, muscle, skin, heart, and carcass) were too low to be quantitated accurately. Tissue and carcass radioactivity for ^{14}C averaged 3.8% of dose for male rats and 3.0% of dose for female rats. A male and four female Sprague-Dawley rats were gavaged with about 1 g/kg of radiolabeled gellan gum and blood samples collected from the tail vein at different time intervals over a 7–day period. Data were reported as ^{14}C dmp/mL blood (^{3}H dmp/mL blood was not reported). The peak level of radioactivity, which amounted to about 0.4% of the administered radioactivity, occurred about 5 hours after dosing.

Gellan gum was shown to be poorly absorbed and did not cause any deaths in rats which received a single large dose (5 g/kg bwt) in the diet or by gavage.

7. *Metabolite toxicology*. Gellan gum is a polysaccharide polymer composed of D-mannopyranose with D-glucopyranose and 6-deoxy-L-mannopyronose, calcium, potassium, and sodium salt. Gellan gum metabolizes into simple non-toxic sugars and their salts.

8. *Endocrine disruption*. Gellan gum does not belong to a class of chemicals known or suspected of having adverse effects on the endocrine system. There is no evidence that gellan gum has any effect on endocrine function in developmental or reproduction studies. Furthermore, histological investigation of endocrine organs in chronic dog, rat, and mouse studies did not indicate that the endocrine system is targeted by gellan gum.

C. Aggregate Exposure

1. *Dietary exposure*. As a minor formulation component, there is no reasonable expectation that gellan gum will appear in diet.

i. *Food*. Gellan gum is approved in the U.S. under 21 CFR 172.665 as a food additive, stabilizer, and thickener in batters, breadings, coatings, glazes, gravies, and sauces for meat and poultry products. As a minor formulation component, there is no reasonable expectation that gellan gum will appear in food from pesticide uses.

ii. *Drinking water*. As a minor formulation component, there is no reasonable expectation that gellan gum will appear in water.

2. *Non-dietary exposure*. The only non-dietary exposure to gellan gum will be exposure through treating and handling of treated seeds and application of formulations containing gellan gum.

D. Cumulative Effects

The potential for cumulative effects of gellan gum and other substances that have a common mechanism of toxicity has also been considered. Gellan gum is a high-molecular-weight polysaccharide gum produced by a pure-culture fermentation of a carbohydrate with *Sphingomonas elodea*. There is no reliable information to indicate that toxic effects produced by gellan gum would be cumulative with those of any other chemical including another pesticide. Therefore, CP Kelco believes it is appropriate to consider only the potential risks of gellan gum in an aggregate risk assessment.

E. Safety Determination

1. *U.S. population*. The occupational exposure to gellan gum in pesticide formulations during distribution and storage will be limited to: Workers involved in the transportation of gellan gum to customers; and those involved in the loading and off-loading of the product containers from commercial carriers and during opening of drums containing gellan gum. However, the potential for worker exposure is expected to be well controlled and limited if worker-safety procedures are routinely practiced. The potential opportunity for human exposure to gellan gum is expected to be limited to clean-up activities during routine maintenance, or following an accidental spill or release. Exposures occurring during these activities would typically be minimized by the accommodations made in equipment design and

employee work practices. As long as the recommended practices for worker protection during use are respected, the risk of worker exposure to gellan gum in an occupational setting is expected to be of minimal significance.

2. *Infants and children*. The exposure to gellan gum in pesticide formulations is limited to formulators and applicators. Dietary exposure to infants and children does not differ from the general population.

F. International Tolerances

Gellan gum is approved, registered, or filed as a food additive in the countries of Argentina, Brazil, Canada, Chile, Columbia, Costa Rica, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay, Venezuela, Egypt, Hungary, Israel, Jordan, Morocco, Norway, Pakistan, Poland, South Africa, Switzerland, Tunisia, Turkey, Australia, China, Hong Kong, India, Indonesia, Japan, Malaysia, Malta, New Zealand, Singapore, South Korea, Sri Lanka, Taiwan, Thailand, the Philippines, and Vietnam. In the European community, gellan gum has approval (E–418) as a food additive. Purity criteria are established by JECFA (Joint Expert Committee on Food Additives).

[FR Doc. 03–17897 Filed 7–15–03; 8:45 am]

BILLING CODE 6560–50–S]

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2003–0225; FRL–7314–7]

Zeta-cypermethrin and its inactive isomers; Notice of Filing a Pesticide Petition to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket ID number OPP–2003–0225, must be received on or before August 15, 2003.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Linda A. DeLuise, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5428; e-mail address: *deluise.linda@epa.gov@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop protection (NAICS 111)
- Animal production (NAICS 112)
- Food manufacturing (NAICS 311)
- Pesticide manufacturing (NAICS 32532)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established an official public docket for this action under docket identification (ID) number OPP–2003–0225. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

Certain types of information will not be placed in EPA's Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public

docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically*. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket*, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPP–2003–0225. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to *opp-docket@epa.gov*, Attention: Docket ID number OPP–2003–0225. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID number OPP–2003–0225.

3. *By hand delivery or courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, Attention: Docket ID number OPP–2003–0225. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contain data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 3, 2003.

Debra Edwards,

Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner's summary of the pesticide petition is printed below as required by FFDCA section 408(d)(3). The summary of the petition was prepared by the petitioner and represents the view of the petitioner. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

FMC Corporation

PP 3F6577

EPA has received pesticide petition (3F6577) from FMC Corporation, 1735 Market Street, Philadelphia, PA 19103, proposing pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR 180.418 by establishing a tolerance for residues of the insecticide zeta-cypermethrin (±-α-cyano(3-phenoxyphenyl)methyl (±) *cis, trans* 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate) and its inactive isomers in or on the raw agricultural commodity fruit, pome, group 11, at 0.6 ppm and fruit, stone, group 12, at 0.9 ppm. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. The metabolism of cypermethrin in plants is adequately understood. Studies have been conducted to delineate the metabolism of radiolabeled cypermethrin in various crops all showing similar results. The residue of concern is the parent compound only.

2. *Analytical method*. There is a practical analytical method for detecting and measuring levels of cypermethrin in or on food with a limit of detection (LOD) that allows monitoring of food with residues at or above the levels set in these tolerances (gas chromatography with electron capture detection (GC/ECD)).

3. *Magnitude of residues*. Crop field trial residue data from studies conducted at the maximum label rates for representative commodities for pome fruit and stone fruit crop groups root, show that the proposed zeta-cypermethrin tolerances on fruit, pome, group 11, at 0.6 ppm and fruit, stone, group 12, at 0.9 ppm; will not be exceeded when the zeta-cypermethrin products labeled for these uses are used as directed.

B. Toxicological Profile

1. *Acute toxicity*. For the purposes of assessing acute dietary risk, FMC Corporation has used the no observed adverse effect level (NOAEL) of 10.0 milligrams/kilogram/day (mg/kg/day) from the zeta-cypermethrin acute neurotoxicity study in rats. The lowest observed adverse effect level (LOAEL) of 50.0 mg/kg/day was based on clinical signs. This acute dietary endpoint is used to determine acute dietary risks to all population subgroups.

2. *Genotoxicity*. The following genotoxicity tests were all negative: *In vivo* chromosomal aberration in rat bone marrow cells; *in vitro* cytogenic chromosome aberration; unscheduled DNA synthesis (UDS); Chinese Hampster Ovary/Hypoxanthine Guanine Phophoribosyl Transferase (CHO/HGPRT) mutagen assay; weakly mutagenic: gene mutation (Ames).

3. *Reproductive and developmental toxicity*. No evidence of additional sensitivity to young rats was observed following prenatal or postnatal exposure to zeta-cypermethrin.

i. A 2-generation reproductive toxicity study with zeta-cypermethrin in rats demonstrated a NOAEL of 7.0 mg/kg/day and a LOAEL of 27.0 mg/kg/day for parental/systemic toxicity based on body weight, organ weight, and clinical signs. There were no adverse effects in reproductive performance. The NOAEL for reproductive toxicity was considered to be >45.0 mg/kg/day (the highest dose tested (HDT)).

ii. A developmental study with zeta-cypermethrin in rats demonstrated a maternal NOAEL of 12.5 mg/kg/day and a LOAEL of 25 mg/kg/day based on decreased maternal body weight gain, food consumption, and clinical signs. There were no signs of developmental toxicity at 35.0 mg/kg/day, the HDT level.

iii. A developmental study with cypermethrin in rabbits demonstrated a maternal NOAEL of 100 mg/kg/day and a LOAEL of 450 mg/kg/day based on decreased body weight gain. There were no signs of developmental toxicity at 700 mg/kg/day, the HDT level.

4. *Subchronic toxicity*. Short-term and intermediate-term toxicity (incidental oral exposure). The NOAEL of 10.0 mg/kg/day based on clinical signs at the lowest effect level (LEL) of 50.0 mg/kg/day in the zeta-cypermethrin acute neurotoxicity study in rats would also be used for short-term percent acute population adjusted dose (PAD) and margin of exposure (MOE) calculations (as well as acute, discussed in (1) above), and the NOAEL of 5.0 mg/kg/day based on decreased motor activity in the zeta-cypermethrin subchronic neurotoxicity study in rats, would be used for intermediate-term MOE calculations.

5. *Chronic toxicity*—i. The chronic reference dose (RfD) of 0.06 mg/kg/day for zeta-cypermethrin is based on a NOAEL of 6.0 mg/kg/day from a cypermethrin chronic feeding study in dogs and an uncertainty factor (UF) of 100. The endpoint effect of concern was based on clinical signs.

ii. Cypermethrin is classified as a Group C chemical (possible human carcinogen with limited evidence of carcinogenicity in animals) based upon limited evidence for carcinogenicity in female mice; assignment of a Q* has not been recommended.

6. *Animal metabolism*. The metabolism of cypermethrin in animals is adequately understood. Cypermethrin has been shown to be rapidly absorbed, distributed, and excreted in rats when administered orally. Cypermethrin is metabolized by hydrolysis and oxidation.

7. *Metabolite toxicology*. The Agency has previously determined that the metabolites of cypermethrin are not of toxicological concern and need not be included in the tolerance expression nor in the risk exposure assessments.

8. *Endocrine disruption*. No special studies investigating potential estrogenic or other endocrine effects of cypermethrin have been conducted. However, no evidence of such effects were reported in the standard battery of required toxicology studies which have been completed and found acceptable. Based on these studies, there is no evidence to suggest that cypermethrin has an adverse effect on the endocrine system.

C. Aggregate Exposure

1. *Dietary exposure*—i. *Food*. Permanent tolerances, in support of registrations, currently exist for residues of zeta-cypermethrin on: Alfalfa hay, alfalfa forage, alfalfa seed, aspirated grain fractions, sugar beets (roots and tops), head, stem and leafy brassica vegetables, cabbage, field corn grain, pop corn grain, field corn forage, field corn stover, pop corn stover, sweet corn (K+CWHR), sweet corn forage, sweet corn stover, cottonseed, dried shelled peas and beans, edible podded legume

vegetables, fruiting vegetables (except cucurbits), leafy vegetables, head lettuce, bulb and green onions, pecans, rice grain, rice hulls, rice straw, sorghum forage, sorghum grain, sorghum stover, soybean seed, succulent shelled peas and beans, sugarcane, wheat forage, wheat grain, wheat hay, wheat straw, meat, fat, and meat byproducts of cattle, goats, hogs, horses, and poultry, eggs, milk and milk fat. For the purposes of assessing the potential dietary exposure for these existing and the subject proposed tolerances, FMC Corporation has utilized available information on anticipated residues, monitoring data and percent crop treated as follows:

i. *Acute exposure and risk*. Acute dietary exposure risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure. For the purposes of assessing acute dietary risk for zeta-cypermethrin, FMC Corporation has used the NOAEL of 10.0 mg/kg/day from the zeta-cypermethrin acute neurotoxicity study in rats with an UF of 100 (acute RfD = 0.10 mg/kg/day). The LEL of 50.0 mg/kg/day was based on clinical signs. This acute dietary endpoint is used to determine acute dietary risks to all population subgroups. Available information on anticipated residues, monitoring data and percent crop treated was incorporated into a Tier 3 analysis, using Monte Carlo modeling for commodities that may be consumed in a single serving. These assessments show that the percent acute PAD all fall below EPA's level of concern (≥100%). The 95th percentile of exposure for the overall U.S. population was estimated to be 0.001177 mg/kg/day (percent acute RfD of 1.2); 99th percentile 0.003307 mg/kg/day (percent acute RfD of 3.3); and 99.9th percentile 0.012692 mg/kg/day (percent acute RfD of 12.7). The 95th percentile of exposure for all infants <1–year old was estimated to be 0.002441 mg/kg/day (percent acute RfD of 2.4); 99th percentile 0.011178 mg/kg/day (percent acute RfD of 11.2); and 99.9th percentile 0.029462 mg/kg/day (percent acute RfD of 29.5). The 95th percentile of exposure for nursing infants <1–year old was estimated to be 0.001247 mg/kg/day (percent acute RfD of 1.3); 99th percentile 0.004540 mg/kg/day (percent acute RfD of 4.5); and 99.9th percentile 0.011659 mg/kg/day (percent acute RfD of 11.7). The 95th percentile of exposure for non-nursing infants <1–year old (the most highly exposed population subgroup) was estimated to be 0.002786 mg/kg/day (percent acute RfD of 2.8); 99th percentile 0.012899 mg/kg/day (percent acute RfD of 12.9); and 99.9th percentile 0.033071 mg/kg/day (percent acute RfD of 33.1). The 95th percentile of exposure for children 1 to 6 years old and children 7 to 12 years old was estimated to be, respectively, 0.001942 mg/kg/day (percent acute RfD of 1.9) and 0.001244 mg/kg/day (percent acute RfD of 1.2); 99th percentile 0.005670 mg/kg/day (percent acute RfD of 5.7) and 0.003082 (percent acute RfD of 3.1); and 99.9th percentile 0.018280 mg/kg/day (percent acute RfD of 18.3) and 0.009335 (percent acute RfD of 9.3). The 95th percentile of exposure for females (13+/nursing) was estimated to be 0.001128 mg/kg/day (percent acute RfD of 1.1); 99th percentile 0.003112 mg/kg/day (percent acute RfD of 3.1); and 99.9th percentile 0.012903 mg/kg/day (percent acute RfD of 12.9). Therefore, FMC Corporation concludes that the acute dietary risk of zeta-cypermethrin, as estimated by the dietary risk assessment, does not appear to be of concern.

ii. *Chronic exposure and risk*. The chronic RfD of 0.06 mg/kg/day for zeta-cypermethrin is based on a NOAEL of 6.0 mg/kg/day from a cypermethrin chronic feeding study in dogs and an UF of 100. The endpoint effect of concern was based on clinical signs. A chronic dietary exposure/risk assessment has been performed for zeta-cypermethrin using the above chronic RfD. Available information on anticipated residues, monitoring data and percent crop treated was incorporated into the analysis to estimate the anticipated residue contribution (ARC). The ARC is generally considered a more realistic estimate than an estimate based on tolerance level residues. The ARC is estimated to be 0.000184 mg/kg body weight (bwt)/day and utilize 0.3% of the chronic RfD for the overall U.S. population. The ARC for non-nursing infants (<1–year) (subgroup most highly exposed) is estimated to be 0.000666 mg/kg bwt/day and utilizes 1.1% of the chronic RfD, respectively. The ARCs for children 1 to 6 years old and children 7 to 12 years old are estimated to be 0.000477 mg/kg bwt/day and 0.000254 mg/kg bwt/day and utilizes 0.8% and 0.4% of the chronic RfD, respectively. The ARC for females (13+/nursing) is estimated to be 0.000180 mg/kg bwt/day and utilizes 0.3% of the RfD. Generally speaking, EPA has no cause for concern if the total dietary exposure from residues for uses for which there are published and proposed tolerances is less than 100% of the chronic RfD. Therefore, FMC Corporation concludes that the chronic dietary risk of zeta-cypermethrin, as estimated by the dietary risk assessment, does not appear to be of concern.

iii. *Drinking water*. Laboratory and field data have demonstrated that cypermethrin is immobile in soil and will not leach into ground water. Other data show that cypermethrin is virtually insoluble in water and extremely lipophilic. As a result, FMC Corporation concludes that residues reaching surface waters from field runoff will quickly adsorb to sediment particles and be partitioned from the water column. Drinking water estimated concentrations (DWECs) and the corresponding drinking water level of comparison (DWLOCs) values were calculated for chronic and acute exposures. The results show that all DWLOC values exceed the DWEC values. Thus, exposure to zeta-cypermethrin and cypermethrin residues in drinking water is not of concern.

EPA's draft Standard Operating Procedures (SOP) for incorporating estimates of drinking water exposure into aggregate risk assessments was used to perform a drinking water analysis. This SOP utilizes a variety of tools to conduct drinking water assessment. These tools include water models such as (Food Quality Protection Act (FQPA) FQPA Index Reservoir Screening Tool (FIRST)), EPA Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS), Screening Concentration in Groundwater (SCI-GROW), and monitoring data. If monitoring data are not available then the models are used to predict potential residues in drinking water. The technique recommended in drinking water SOP compares a calculated DWLOC value to the DWEC value. The DWEC value results from either the monitoring data residues or modeled water residues. If the DWLOC value exceeds the DWEC value then there is reasonable certainty that no harm will result from the acute or chronic aggregate exposure.

In the case of cypermethrin and zeta-cypermethrin, monitoring data do not exist. Therefore, the FIRST model was used to estimate a surface water residue. The risk assessment for drinking water compares two values: The DWLOC and the DWEC. The DWLOC is the maximum allowable drinking water concentration (in part per billion (ppb)). The DWEC is derived either from monitoring studies or from modeling. If the DWLOC is greater than the DWEC, then the overall exposure from water, food, and residential is considered to be acceptable. The calculated DWLOC values for acute and chronic exposures for all adults, adult females, and

children exceed the modeled DWEC surface water residues. Therefore, there is reasonable certainty that no harm will result from cumulative and aggregate (food and water) exposure to cypermethrin and zeta-cypermethrin residues.

2. *Non-dietary exposure*. Zeta-cypermethrin is registered for agricultural crop applications only, therefore non-dietary exposure assessments are not warranted.

D. Cumulative Effects

In consideration of potential cumulative effects of cypermethrin and other substances that may have a common mechanism of toxicity, to our knowledge there are currently no available data or other reliable information indicating that any toxic effects produced by cypermethrin would be cumulative with those of other chemical compounds; thus only the potential risks of cypermethrin have been considered in this assessment of its aggregate exposure. FMC Corporation intends to submit information for EPA to consider concerning potential cumulative effects of cypermethrin consistent with the schedule established by EPA in the **Federal Register** of August 4, 1997 (62 FR 42020) (FRL–5734–6) and other EPA publications pursuant to the FQPA.

E. Safety Determination

1. *U.S. population*. The chronic RfD of 0.06 mg/kg/day for zeta-cypermethrin is based on a NOAEL of 6.0 mg/kg/day from a cypermethrin chronic feeding study in dogs and an UF of 100. The endpoint effect of concern was based on clinical signs. A chronic dietary exposure/risk assessment has been performed for zeta-cypermethrin using the above chronic RfD. Available information on anticipated residues, monitoring data and percent crop treated was incorporated into the analysis to estimate the ARC. The ARC is generally considered a more realistic estimate than an estimate based on tolerance level residues. The ARC is estimated to be 0.000184 mg/kg bwt/day and utilize 0.3% of the chronic RfD for the overall U.S. population. The ARC for non-nursing infants (<1–year) (subgroup most highly exposed) is estimated to be 0.000666 mg/kg bwt/day and utilizes 1.1% of the chronic RfD, respectively. The ARCs for children 1 to 6 years old and children 7 to 12 years old are estimated to be 0.000477 mg/kg bwt/day and 0.000254 mg/kg bwt/day and utilizes 0.8% and 0.4% of the chronic RfD, respectively. The ARC for females (13+/nursing) is estimated to be 0.000180 mg/kg bwt/day and utilizes 0.3% of the RfD. Generally speaking, EPA has no cause for concern if the total dietary exposure from residues for uses for which there are published and proposed tolerances is less than 100% of the chronic RfD. Therefore, FMC Corporation concludes that the chronic dietary risk of zeta-cypermethrin, as estimated by the dietary risk assessment, does not appear to be of concern.

Acute dietary exposure risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure. For the purposes of assessing acute dietary risk for zeta-cypermethrin, FMC Corporation has used the NOAEL of 10.0 mg/kg/day from the zeta-cypermethrin acute neurotoxicity study in rats with an UF of 100 (acute RfD = 0.10 mg/kg/day). The LEL of 50.0 mg/kg/day was based on clinical signs. This acute dietary endpoint is used to determine acute dietary risks to all population subgroups. Available information on anticipated residues, monitoring data and percent crop treated was incorporated into a Tier 3 analysis, using Monte Carlo modeling for commodities that may be consumed in a single serving. These assessments show that the percent acute (percent PAD) all fall below EPA's level of concern (≥100%). The 95th percentile of exposure for the overall U.S. population was estimated to be 0.001177 mg/kg/day (percent acute RfD of 1.2); 99th percentile 0.003307 mg/kg/day (percent acute RfD of 3.3); and 99.9th percentile 0.012692 mg/kg/day (percent acute RfD of 12.7). The 95th percentile of exposure for all infants <1–year old was estimated to be 0.002441 mg/kg/day (percent acute RfD of 2.4); 99th percentile 0.011178 mg/kg/day (percent acute RfD of 11.2); and 99.9th percentile 0.029462 mg/kg/day (percent acute RfD of 29.5). The 95th percentile of exposure for nursing infants <1–year old was estimated to be 0.001247 mg/kg/day (percent acute RfD of 1.3); 99th percentile 0.004540 mg/kg/day (percent acute RfD of 4.5); and 99.9th percentile 0.011659 mg/kg/day (percent acute RfD of 11.7). The 95th percentile of exposure for non-nursing infants <1–year old (the most highly exposed population subgroup) was estimated to be 0.002786 mg/kg/day (percent acute RfD of 2.8); 99th percentile 0.012899 mg/kg/day (percent acute RfD of 12.9); and 99.9th percentile 0.033071 mg/kg/day (percent acute RfD of 33.1). The 95th percentile of exposure for children 1 to 6 years old and children 7 to 12 years old was estimated to be, respectively, 0.001942 mg/kg/day (percent acute RfD of 1.9) and 0.001244 mg/kg/day (percent acute RfD of 1.2); 99th percentile 0.005670 mg/kg/day (percent acute RfD of 5.7) and 0.003082 (percent acute RfD of 3.1); and 99.9th percentile 0.018280 mg/kg/day (percent acute RfD of 18.3) and 0.009335 (percent acute RfD of 9.3). The 95th percentile of exposure for females (13+/nursing) was estimated to be 0.001128 mg/kg/day (percent acute RfD of 1.1); 99th percentile 0.003112 mg/kg/day (percent acute RfD of 3.1); and 99.9th percentile 0.012903 mg/kg/day (percent acute RfD of 12.9). Therefore, FMC Corporation concludes that the acute dietary risk of zeta-cypermethrin, as estimated by the dietary risk assessment, does not appear to be of concern.

2. *Infants and children*—i. *General*. In assessing the potential for additional sensitivity of infants and children to residues of zeta-cypermethrin, FMC Corporation considered data from developmental toxicity studies in the rat and rabbit, and a 2–generation reproductive study in the rat. The data demonstrated no indication of increased sensitivity of rats to zeta-cypermethrin or rabbits to cypermethrin *in utero* and/or postnatal exposure to zeta-cypermethrin or cypermethrin. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from pesticide exposure during prenatal development to one or both parents. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity. FFDCA section 408 provides that EPA may apply an additional margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base.

ii. *Developmental toxicity studies*. In the prenatal developmental toxicity studies in rats and rabbits, there was no evidence of developmental toxicity at the HDT (35.0 mg/kg/day in rats and 700 mg/kg/day in rabbits). Decreased body weight gain was observed at the maternal LOAEL in each study; the maternal NOAEL was established at 12.5 mg/kg/day in rats and 100 mg/kg/day in rabbits.

iii. *Reproductive toxicity study*. In the 2–generation reproduction study in rats, offspring toxicity (body weight) and parental toxicity (body weight, organ weight, and clinical signs) was observed at 27.0 mg/kg/day and greater. The parental systemic NOAEL was 7.0 mg/kg/day and the parental systemic LOAEL was 27.0 mg/kg/day. There were

no developmental (pup) or reproductive effects up to 45.0 mg/kg/day, HDT.

iv. *Prenatal and postnatal sensitivity*—i. *Prenatal*. There was no evidence of developmental toxicity in the studies at the HDT in the rat (70.0 mg/kg/day) or in the rabbit (700 mg/kg/day). Therefore, there is no evidence of a special dietary risk (either acute or chronic) for infants and children which would require an additional safety factor.

v. *Postnatal*. Based on the absence of pup toxicity up to dose levels which produced toxicity in the parental animals, there is no evidence of special postnatal sensitivity to infants and children in the rat reproduction study.

vi. *Conclusion*. Based on the above, FMC Corporation concludes that reliable data support use of the standard 100-fold UF, and that an additional UF is not needed to protect the safety of infants and children. As stated above, aggregate exposure assessments utilized significantly less than 1% of the RfD for either the entire U.S. population or any of the 26 population subgroups including infants and children. Therefore, it may be concluded that there is reasonable certainty that no harm will result to infants and children from aggregate exposure to cypermethrin residues.

F. International Tolerances

There are no Canadian, or Mexican residue limits, for residues of cypermethrin or zeta-cypermethrin in or on pome fruits crop group or stone fruits crop group. The codex maximum residue levels for cypermethrin are 2.0 ppm for nectarine, 2.0 ppm for peaches, 1.0 for plums (including prunes), and 2.0 ppm for pome fruits.

[FR Doc. 03–17898 Filed 7–15–03; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2003–0233; FRL–7316–2]

Cis-3-hexen-1-ol; Notice of Filing a Pesticide Petition to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket ID number OPP–2003–0233, must be received on or before August 15, 2003.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Kathryn Boyle, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–6304; e-mail address: *boyle.kathryn@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111)
- Animal production (NASICS code 112)
- Food manufacturing (NAICS code 311)
- Pesticide manufacturing (NAICS code 32532)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established an official public docket for this action under docket identification (ID) number OPP–2003–0233. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or

other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and To Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically*. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket*, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPP–2003–0233. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to *opp-docket@epa.gov*, Attention: Docket ID Number OPP–2003–0233. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number OPP–2003–0233.

3. *By hand delivery or courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, Attention: Docket ID Number OPP–2003–0233. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI To the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at

this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 2, 2003.

Debra Edwards,

Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner's summary of the pesticide petition is printed below as required by FFDCA section 408(d)(3). The summary of the petition was prepared by the petitioner and represents the view of the petitioner. EPA may have edited the summary if the terminology used was unclear, the summary contained extraneous material, or the summary unintentionally made the reader conclude that the findings reflected EPA's position and not the position of the petitioner. The petition announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Syngenta Crop Protection

PP 3E6569

EPA has received a pesticide petition (PP 3E6569) from Syngenta Crop Protection, Inc., P.O. Box 18300, Greensboro, NC 27419 proposing, pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180 to establish an exemption from the requirement of a tolerance for *cis*-3-hexen-1-ol when used as an inert ingredient in pesticide formulations containing the active ingredient paraquat dichloride. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. The plant metabolism of *cis*-3-hexen-1-ol has not been investigated. However, *cis*-3-hexen-1-ol has been commonly detected as a volatile organic emission from a number of plant species. *Cis*-3-Hexen-1-ol is also a naturally occurring aromatic substance in a number of food products. *Cis*-3-Hexen-1-ol, is a terminal metabolite of the fatty acid/lipoxygenase pathway catalyzing the normal oxidative breakdown of plant membrane lipids.

2. *Analytical method*. No specific analytical method is provided since the petition is for an exemption from the requirement of establishing a tolerance for *cis*-3-hexen-1-ol. However, *cis*-3-hexen-1-ol has been routinely detected in both raw agricultural commodities and in processed foods by gas chromatography, mass spectroscopy, or a combination of both. These methods could be readily developed and adapted to detect *cis*-3-hexen-1-ol in food products to which paraquat dichloride may be applied.

3. *Magnitude of residues*. Potential residues of *cis*-3-hexen-1-ol in raw and or processed agricultural commodities are expected to be minimal. *Cis*-3-hexen-1-ol would be present at a concentration of up to 4 grams/L only in pesticide formulations containing paraquat dichloride. The maximum concentration of *cis*-3-hexen-1-ol (4 grams/L) in paraquat dichloride formulations is much lower than the concentration of the co-formulated active ingredient (paraquat dichloride). Based on data presented in the re-registration eligibility document on paraquat dichloride, and on the expected relative concentrations of paraquat and *cis*-3-hexenol in end use formulations, residues of *cis*-3-hexen-1-ol on agricultural commodities would be at least 50-fold lower than paraquat dichloride. Under field conditions, the residues of *cis*-3-hexen-1-ol are expected to be even lower since *cis*-3-hexen-1-ol is a volatile organic compound with a substantially higher vapor pressure than paraquat dichloride.

B. Toxicological Profile

1. *Acute toxicity*. The acute oral toxicity of *cis*-3-hexen-1-ol has been evaluated in both rats and mice. The oral lethal dose $(LD)_{50}$ for *cis*-3-hexen-1-ol in rats was reported to be 4,700 milligrams/kilograms (mg/kg) body weight, with a 95% confidence interval of 3,820 to 5,580 mg/kg body weight. In this study, most deaths occurred within 3 hours of dosing, with all deaths occurring within the first 24 hours post-dosing. Clinical signs observed prior to death included ataxia followed by decreased spontaneous movement and development of a comatose state. Necropsy evaluations revealed no specific abnormalities in any of the rats, including decedents. Oral lethal dose $(LD)_{50}$ values of between 7,000 and 10,000 mg/kg body weight have also been reported for both rats and mice. Rats and mice were considerably more sensitive to the intraperitoneal administration of *cis*-3-hexen-1-ol, with reported i.p. LD_{50} values of 600 and 400 to 500 mg/kg body weight, respectively.

Cis-3-Hexen-1-ol was essentially non-toxic by the dermal route, with a dermal LD_{50} value of greater than 5,000 mg/kg body weight (the highest dose tested) in rabbits. Similarly, the application of neat solutions of *cis*-3-hexen-1-ol, held under an occlusive dressing for 24 hours, to both the intact and abraded skin of rabbits was found to be non-irritating. In human subjects, no dermal irritation was reported following application of a 4% *cis*-3-hexen-1-ol preparation in petrolatum held under an occlusive patch for 48 hours. In addition, the *cis*-3-hexen-1-ol preparation produced no evidence of sensitization in a maximization test conducted with 25 human volunteers.

The acute toxicity data available for *cis*-3-hexen-1-ol are consistent with the data on related linear and branched chain aliphatic unsaturated/unconjugated alcohols, aldehydes, and esters, showing this class of substances to be of low toxicity when administered orally.

2. *Genotoxicty*. The genotoxicity of *cis*-3-hexen-1-ol has not been formally investigated. However, *cis*-3-hexen-1-ol contains no structural alerts for genotoxic potential. *Cis*-3-Hexen-1-ol is expected to be oxidized to the corresponding aldehyde and carboxylic acid by high capacity carbohydrate metabolic pathways (i.e., NAD+/NADH-dependent metabolism to *cis*-3-hexenal followed by aldehyde dehydrogenase-mediated conversion to *cis*-3-hexenoic acid). Products of these metabolic pathways are not anticipated to show genotoxic activity. Information available on substances structurally related to *cis*-3-hexen-1-ol provides no evidence of mutagenic or chromosome-damaging potential. For example, in various reverse mutation assays conducted in bacterial cultures, oleic acid, methyl linoleate, and 2,6-dimethyl-5-heptenal were reported to show no evidence of mutagenic activity. Similarly, 2,6-dimethyl-5-heptenal was reported to show no genotoxic activity in an *in vitro* unscheduled DNA synthesis test or in an *in vivo* mouse micronucleus test. Also, the longer chain saturated aliphatic alcohols octadecan-1-ol and tetradecan-1-ol have been reported to be non-mutagenic in the Ames test conducted with *Salmonella*

typhimurium strains TA98, TA100, TA1535, TA1537, and TA1538.

3. *Reproductive and developmental toxicity*. No reproductive or developmental toxicity studies on *cis*-3-hexen-1-ol were identified in the scientific literature. Given the metabolism of *cis*-3-hexen-1-ol to endogenous substrates of fatty acid oxidation pathways, or to readily excreted carboxylic acids, it is not expected to be a reproductive toxicant. A teratogenicity study has been conducted on 4-pentenoic acid, a substance similar to the potential carboxylic acid metabolites of *cis*-3-hexen-1-ol. In this study, 2 groups of 15 female NMRI mice were mated with males for a period of 2 hours, and, on day 8 of gestation, were administered, by subcutaneous injection, the sodium salt of 4-pentenoic acid as a single 600 mg/kg body weight dose. Implantation sites were counted and each live fetus was weighed and examined for neural tube defects and any other visceral or skeletal abnormalities. The study authors concluded that 4-pentenoic acid had no effect on embryo survival, the number of live fetuses, fetal weight, or on the incidence of neural tube defects. There were no reports of effects of 4-pentenoic acid on the incidence rates of other visceral or skeletal abnormalities.

Summaries of two reproductive toxicity studies on higher chain length saturated primary alcohols also demonstrated lack of toxicity. In these 1-generation reproductive toxicity studies, dodecan-1-ol or octadecan-1-ol was administered in the diet to groups of male and female rats for 14-days prior to mating and to pregnant females for an additional 3 weeks. The maximum dietary dose tested for both compounds was 2,000 mg/kg body weight/day. There were no reported effects of treatment with either alcohol on the reproductive and developmental parameters measured.

4. *Subchronic toxicity*. *Cis*-3-Hexen-1-ol has been evaluated for subchronic toxicity in a 98-day drinking water study in rats. In this study, groups of 15 male and 15 female weanling SPF-derived CFE rats, housed 5 to a cage, were allowed to consume ad libitum drinking water containing either 0, 310, 1,250, or 5,000 ppm *cis*-3-hexen-1-ol. Due to volatilization loss, fresh solutions were prepared every 2 days. Body weights, and food and water consumption were measured weekly. During the sixth week of study, blood was collected from the tail vein of eight rats of each sex from the control, 1,250, and 5,000 ppm dose groups. At study termination, blood was collected from the aorta of all animals. Hematological parameters measured included: hemoglobin concentration, hematocrit value, erythrocyte and reticulocyte counts, and total and differential leukocyte counts. At study termination, serum was analyzed for the concentration of urea and for the activities of glutamic-oxalacetic and glutamic-pyruvic transaminases. Urine was collected from eight rats of each sex from each dose group during the sixth week of study. Urine samples were also collected from 12 rats of each group during the last week of study. Urine was analyzed for pH, presence of microscopic constituents, and for bile, blood, and glucose content. Kidney function was further evaluated through measurement of the volume and specific gravity of urine produced during: (i) A 6-hour period of water deprivation, (ii) the first 2 hours after loading with a water dose of 25 milliliter (ml)/kg body weight, and (iii) a 4-hour period starting 16 hours after water loading. Following termination with barbiturate, all rats were necropsied, and all major tissues grossly observed.

The brain, pituitary gland, thyroid gland, heart, liver, spleen, kidneys, adrenals, and gonads were weighed. Tissues from the high-dose and control rats were subject to histopathological examination.

Treatment with *cis*-3-hexen-1-ol had no effect on mortality, clinical signs, body weight gains, or on food consumption. In males treated at 5,000 ppm there was tendency to decreased water consumption, likely as a result of the reduced palatability of the solution. In addition, in the high-dose males, relative kidney weights were increased and the urine collected during the first 2 hours following water loading more concentrated (i.e., had a higher specific gravity) in comparison to the controls. In high-dose females, transitory anemia was observed with reduced hemoglobin concentration during week 6 of the study. The no observed adverse effect level (NOAEL) was considered by the study authors to be 1,250 ppm in the drinking water. This concentration was stated to equate to a *cis*-3-hexen-1-ol intake of approximately 120 to 150 mg/kg body weight/day.

5. *Chronic toxicity*. *Cis*-3-Hexen-1-ol has not been tested in a chronic toxicity or in an oncogenicity study in rodents. Based on a lack of structural alerts for genotoxicity, and given its biotransformation to endogenous substrates that participate in fatty acid metabolism in conjunction with the lack of target organ toxicity or of effects potentially considered preneoplastic (*e.g.*, hyperplasia) in the 98-day drinking water study, *cis*-3-hexen-1-ol is not expected to possess carcinogenic properties. In addition, *cis*-3-hexen-1-ol is a linear unsaturated alcohol unrelated to the branched chain saturated alcohol, 2-ethylhexanol, for which there exists some evidence of hepatotoxic and neoplastic potential in rodents as a result of the cascade of events associated with the induction of peroxisome proliferation.

6. *Animal metabolism*. The metabolism of *cis*-3-hexen-1-ol in mammalian systems has not been specifically investigated. One study on the saturated homologue of *cis*-3-hexen-1-ol, *n*-hexanol, demonstrated that following an oral dose of 8 millimol (mmol)/kg body weight (816 mg/kg body weight) to rabbits, the main metabolites (90%) were those associated with oxidation to the corresponding aldehyde and acid, with further â-oxidation to carbon dioxide and water. Direct conjugation of *n*-hexanol with glucuronide was reportedly a minor (10%) metabolic pathway.

Primary aliphatic alcohols attached to either linear, branched, or unsaturated alky chains (i.e., as is the case with *cis*-3-hexen-1-ol) are efficiently oxidized to the corresponding aldehyde by NAD+/NADH-dependent alcohol dehydrogenase and then to the carboxylic acid by aldehyde dehydrogenase. As a result, *cis*-3-hexen-1-ol would be expected to be efficiently oxidized to the corresponding aldehyde and acid. The unsaturated carboxylic acids that result from the oxidative metabolism of linear unsaturated primary alcohols (e.g., *cis*-3-hexen-1-ol) are known to participate in normal fatty acid metabolism.

7. *Metabolite toxicology*. The metabolism of *cis*-3-hexen-1-ol has not been studied in mammalian species. Potential metabolites include 3-hexanal, hexenoic acid, hexanoic acid and lower homologues produced through â-oxidation. The Joint Expert Committee on Food Additives has determined that at expected *per capita* intakes in the Unites States, that *cis*-3-hexenal and *cis*-3-hexenoic acid pose no safety concern. Dietary intakes were based on the use of the substances as flavoring agents.

8. *Endocrine disruption*. In the 98-day drinking water study on *cis*-3-hexen-1-ol in rats, there were no effects on endocrine or reproductive tissues. There was no evidence of any toxic effect that could be interpreted to indicated hormone-disrupting activity.

C. Aggregate Exposure

1. *Dietary exposure*. Chronic dietary exposure to *cis*-3-hexen-1-ol has occurred for centuries due its natural presence in many foodstuffs and due to

the use of this substance as a flavoring agent. With respect to the natural presence of *cis*-3-hexen-1-ol in food, common sources include: All green leafy plants, cruciferous plants, many fruits and vegetable, particularly tomatoes, and many essential oils. More than 10,000 kg of *cis*-3-hexen-1-ol may be consumed in the United Sates from its natural presence in tomatoes alone.

Cis-3-Hexen-1-ol is consumed primarily through its use as a flavoring agent. Based on measured concentrations in foods and the use of consumption estimates of various food categories, *per capita* consumption *cis*-3-hexen-1-ol is estimated at about 1 mg/kg body weight/day. About 0.018 mg/kg body weight per day may be consumed as a result of the use of *cis*-3-hexen-1-ol as a flavoring agent.

The residues of *cis*-3-hexen-1-ol on raw agricultural commodities, due to application in paraquat formulations only, are expected to be negligible, particularly in contrast to the human exposures to *cis*-3-hexen-1-ol from its natural presence foods and from its use as a flavoring agent.

Based on the expected relative concentrations of *cis*-3-hexen-1-ol in paraquat formulations and on the chronic dietary intake of paraquat calculated in the RED document (U.S. EPA, 1997) for paraquat dichloride, chronic exposures to residues of *cis*-3-hexen-1-ol of 0.0000076 and 0.000024 mg/kg body weight/day, respectively, were calculated for the U.S. population and for non-nursing infants less than 1-year old. These calculated chronic exposures to *cis*-3-hexen-1-ol residues on food are more than 40,000-fold lower than exposures occurring from the natural presence of *cis*-3-hexen-1-ol in foods (i.e., 1 mg/kg body weight/day from natural occurrence in food / 0.000024 mg/kg body weight/day from possible residues on paraquat-treated food products).

i. *Food*. Chronic dietary exposure to *cis*-3-hexen-1-ol has occurred for centuries due its natural presence in many foodstuffs and due to the use of this substance as a flavoring agent. With respect to the natural presence of *cis*-3-hexen-1-ol in food, common sources include: all green leafy plants, cruciferous plants, many fruits and vegetable, particularly tomatoes, and many essential oils. More than 10,000 kg of *cis*-3-hexen-1-ol may be consumed in the United Sates from its natural presence in tomatoes alone.

Cis-3-Hexen-1-ol is consumed primarily through its use as a flavoring agent. Based on measured concentrations in foods and the use of consumption estimates of various food categories, per capita consumption *cis*-3-hexen-1-ol is estimated at about 1 mg/kg body weight/day. About 0.018 mg/kg body weight per day may be consumed as a result of the use of *cis*-3-hexen-1-ol as a flavoring agent.

The residues of *cis*-3-hexen-1-ol on raw agricultural commodities, due to application in paraquat formulations, are expected to be negligible, particularly in contrast to the human exposures to *cis*-3-hexen-1-ol from its natural presence foods and from its use as a flavoring agent.

ii. *Drinking water*. Exposures to *cis*-3-hexen-1-ol from drinking water are expected to be negligible. Given the volatile nature of *cis*-3-hexen-1-ol, any trace concentrations of *cis*-3-hexen-1-ol that may enter drinking water supplies would be readily off-gassed. In any case, given its toxicological profile, *cis*-3-hexen-1-ol could not be present in drinking water at concentrations of concern for human health.

2. *Non-dietary exposure*. *Cis*-3-Hexen-1-ol, and a number of related alcohols and aldehydes, is a common constituent of the leafy portions of many plant species, hence the name ''leaf alcohol ''. A number of studies have reported the presence of *cis*-3-hexen-1-ol and other compounds in the off-gas emissions from agricultural and non-agricultural (forest) plant species. While emissions from these sources appear considerable, it is not possible to determine the extent of inhalation exposure to *cis*-3-hexen-1-ol from these sources.

D. Cumulative Effects

Cis-3-Hexen-1-ol has been shown in a 98-day toxicity study not to produce overt organ toxicity. In addition, biochemical and metabolic considerations indicate that *cis*-3-hexen-1-ol would be metabolized to the corresponding aldehydes and acids, which, in turn, would be normal substrates for enzymes involved in fatty acid catabolism. Based on these data, there would appear to be no evidence for a ''common mechanism '' of toxicity with other substances. Simple metabolism along a common metabolic pathway does not constitute a ''common mechanism of toxicity''. As a result, there is no expectation that the use of *cis*-3-hexen-1-ol as an inert ingredient in paraquat dichloride pesticide formulations (at up to 4 grams/L) would contribute to any cumulative toxicity arising from exposure to other substances having a common mechanism of toxicity.

E. Safety Determination

1. *U.S. population*. The results of the acute toxicity studies, irritation and sensitization studies, and the 98-day subchronic toxicity study demonstrate that *cis*-3-hexen-1-ol is of a low order of toxicity, with no overt organ toxicity, even at high dosages. *Cis*-3-Hexen-1-ol is not anticipated to be genotoxic, a conclusion consistent with the results reported for similar compounds. Similarly, metabolic considerations provide no evidence of severe toxicity since *cis*-3-hexen-1-ol is likely biotransformed to the corresponding unsaturated carboxylic acid, a compound that would participate in normal fatty acid metabolism.

Use of *cis*-3-hexen-1-ol at up to 4 grams/L in paraquat dichloride pesticide formulations is not expected to produce significant residues in raw agricultural commodities. Based on tolerances established for paraquat and on the anticipated relative concentrations of paraquat and *cis*-3-hexen-1-ol in end use formulations, maximum residues of *cis*-3-hexen-1-ol were estimated to be in the range of 0.0009 ppm. Under field conditions, the residues of *cis*-3-hexen-1-ol are expected to be even lower since *cis*-3-hexen-1-ol is highly volatile with a much higher vapor pressure than paraquat dichloride. At these maximum residue levels, the maximum chronic exposures to *cis*-3-hexen-1-ol were estimated to be 0.0000076 and 0.000024 mg/kg body weight/day, respectively, for the U.S. population and for non-nursing infants less than 1-year old. These calculated chronic exposures to *cis*-3-hexen-1-ol residues on food are more than 40,000-fold lower than exposures occurring from the natural presence of *cis*-3-hexen-1-ol in foods.

Based on the preceding analysis, Syngenta Crop Protection, Inc., believes that there is a reasonable certainty that no harm will result to the general population, including subgroups such as infants and children, from aggregate exposures to *cis*-3-hexen-1-ol.

2. *Infants and children*. Based on the data presented in the preceding sections and on the safety analysis presented above, Syngenta Crop Protection, Inc., believes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposures to *cis*-3-hexen-1-ol.

F. International Tolerances

No tolerances, or exemptions for tolerance, for *cis*-3-hexenol have been previously requested by Syngenta Crop Protection, Inc. A maximum residue level (MRL) for *cis*-3-hexen-1-ol has not been established by the Codex Alimentarus Commission. In the United

States, *cis*-3-hexen-1-ol is cleared for use in non-food pesticide applications.

[FR Doc. 03–17899 Filed 7–15–03; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[RCRA–2003–0013; SWH–FRL–7527–9]

Recovered Materials Advisory Notice

AGENCY: Environmental Protection Agency.

ACTION: Notice of data availability.

SUMMARY: On August 28, 2001, the U.S. Environmental Protection Agency (EPA or the Agency) proposed to designate nylon carpet in its Comprehensive Procurement Guideline IV (CPG IV). On that same day, EPA issued a Draft Recovered Materials Advisory Notice IV (RMAN IV) for nylon carpet. The RMAN provides guidance to procuring agencies for purchasing items designated in the CPG. Specifically, Table C–4 of the draft RMAN IV contained recommended recovered materials content ranges for use by procurement officials when buying nylon carpet containing recovered materials and/or nylon carpet with backing made from recovered materials.

Today's action announces the availability of information submitted both during and after the close of the public comment period for the draft RMAN IV for nylon carpet, provides a summary of the revisions EPA is considering making to the draft RMAN for nylon carpet as a result of comments received, and requests comments both on the information submitted and on the revisions being considered for the RMAN on nylon carpet. EPA will consider information and data submitted in response to this notice when issuing the final RMAN recommendations for nylon carpet.

EPA notes that in the August 28, 2001 rulemaking notice, 10 other items were proposed for designation in the CPG. The agency is currently reviewing comments received on those proposed designations and will be issuing a separate rulemaking notice for those items in the near future.

DATES: EPA will accept public comments on this Notice of Data Availability until September 2, 2003.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I.B of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: For general information contact the RCRA Call Center at (800) 424–9346 or TDD (800) 553–7672 (hearing impaired). In the Washington, DC metropolitan area, call (703) 412–9810 or TDD (703) 412–3323. For technical information pertaining to this notice, contact Sue Nogas at (703) 308–0199.

SUPPLEMENTARY INFORMATION:

I. General Information

A. How Can I Get Copies of This Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for the materials discussed in this notice under Docket ID No. RCRA–2003–0013. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the RCRA Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the RCRA Docket is (202) 566–0270. Copies cost $.15 per page.

2. *Electronic Access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/.*

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket identification number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.A.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the Docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

B. How and To Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA will consider late comments if time permits.

1. *Electronically.* If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. This ensures that you can be identified as the submitter of the

comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets.* Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket,* and follow the online instructions for submitting comments. To access EPA's electronic public docket from the EPA Internet Home Page, select ''Information Sources,'' ''Dockets,'' and ''EPA Dockets.'' Once in the system, select ''search,'' and then key in Docket ID No. RCRA–2003–0013. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail.* Comments may be sent by electronic mail (e-mail) to *rcra-docket@epa.gov,* Attention Docket ID No. RCRA–2003–0013. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the Docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.B.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By Mail.* Send an original version of your comments to: RCRA Docket, Environmental Protection Agency, Mailcode: 5305T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. RCRA–2003–0013.

3. *By Hand Delivery or Courier.* Deliver your comments to: EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. Attention Docket ID No. RCRA–2003–0013. Such deliveries are only accepted during the Docket's normal hours of operation as identified in Unit I.A.1.

C. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket. Send or deliver information identified as CBI only to the following address: Document Control Officer (5305T), Office of Solid Waste, U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, Attention Docket ID No. RCRA–2003–0013. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

D. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at your estimate.

5. Provide specific examples to illustrate your concerns.

6. Offer alternatives.

7. Make sure to submit your comments by the comment period deadline identified.

8. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

II. What Is the Subject of Today's Action?

EPA is requesting comments on the information submitted in response to the draft RMAN for nylon carpet and is also requesting comments on the revisions EPA is considering making to the RMAN as a result of public comments. Section V, below, shows what revisions the agency is considering for the final RMAN for nylon carpet. Section VI requests comments on these revisions and other issues raised in response to the draft RMAN.

III. What Did EPA Recommend for Nylon Carpet in the Draft RMAN IV?

In Table C–4 of the draft RMAN IV, EPA recommended separate recovered materials content ranges for nylon carpet face fiber and nylon carpet backing (66 FR 45301, August 28, 2001). These recommendations are reproduced below. Although the draft RMAN IV contained recommendations for polyester carpet, today's action only pertains to the nylon carpet recommendations made in the draft RMAN IV. EPA received no comment on the draft RMAN for polyester carpet. Therefore the draft recommendations for polyester carpet will be addressed in the final RMAN IV.

TABLE C–4.—RECOMMENDATIONS FOR POLYESTER CARPET AND RECOMMENDED RECOVERED MATERIALS CONTENT LEVELS FOR NYLON CARPET FACING AND NYLON CARPET BACKING

Product	Material	Postconsumer content (%)	Total recovered materials content (%)
Polyester carpet face fiber	PET	25–100	25–100
Nylon carpet face fiber	Old carpets	1–100	25–100

TABLE C–4.—RECOMMENDATIONS FOR POLYESTER CARPET AND RECOMMENDED RECOVERED MATERIALS CONTENT LEVELS FOR NYLON CARPET FACING AND NYLON CARPET BACKING—Continued

Product	Material	Postconsumer content (%)	Total recovered materials content (%)
Nylon carpet backing	Vinyl	35–70	100

Notes: EPA's recommendations do not preclude a procuring agency from purchasing carpet made from other materials such as acrylic or wool. They simply require that procuring agencies, when purchasing nylon carpet, purchase it with recovered materials in either the fiber facing or the backing, or both, when it meets applicable specifications and performance requirements and when purchasing polyester carpet, purchase it with recovered materials in the fiber facing when it meets applicable specifications and performance requirements.

The nylon carpet recommendations would also include ''renewed'' nylon carpet, which is cleaned, retextured, recolored, or otherwise reused to produce a new nylon carpet product.

IV. What Comments Did EPA Receive on the Proposed CPG IV and the Draft RMAN for Nylon Carpet?

EPA received a number of comments on its proposed comprehensive procurement guideline for nylon carpet and its recovered materials content recommendations for nylon carpet face fiber and nylon carpet backing contained in the draft RMAN IV published on August 28, 2001 (66 FR 45297). Many commenters generally supported the designation of nylon carpet in the federal procurement guideline program and were generally supportive of EPA's recycled-content recommendations. However, some commenters recommended that EPA not designate nylon carpet at all, while others suggested that EPA not include traditional broadloom carpet in the guideline. Several commenters provided new information that suggested an alternative approach: that EPA should provide RMAN recommendations for the different types of nylon carpet (*e.g.*, broadloom vs. tiles or modular, and traditional broadloom vs. performance broadloom) and designate and/or provide recovered materials content recommendations for the entire nylon carpet product rather than issue separate recommendations for the fiber face and backing.

Eight commenters raised concern over the availability of recovered nylon for producing face fiber for nylon carpet, stating that the closure of the Evergreen nylon recycling facility would seriously impact the availability of recovered nylon face fiber. One commenter stated that closing of the Evergreen facility left no practical options for incorporating postconsumer nylon into new nylon carpet face fiber and that the remaining sources of recovered material feedstock for nylon carpet are post-industrial in nature and are not enough to satisfy EPA's criteria for designating a product. Commenters pointed out that using recycled content in traditional broadloom would be of particular concern since traditional broadloom carpet does not have a structured backing that could easily incorporate recycled content and, therefore, most of the recycled content would have to be in the fiber face. Three commenters disagreed with this point of view and stated that the closure of the Evergreen facility should not prevent EPA from going forward with its designation because other fiber manufacturers have the ability to produce recovered content fiber with reasonable postconsumer levels. Some commenters questioned whether EPA should include recycled-content recommendations at all for traditional broadloom carpets, and one set of comments from members of the carpet industry questioned whether EPA should designate nylon carpet or issue recycled-content recommendations as part of the federal CPG program. These commenters claim that focusing on recycled content in nylon carpet could be inconsistent with the broader product stewardship goals established in industry environmental programs such as the Carpet America Recovery Effort (CARE) and could also divert scarce resources from such programs. The concerns from these commenters are that a postconsumer content requirement would foster the use of heavy weight backing products with postconsumer material as a filler and that, when broader issues of energy, emissions and other resources are taken into consideration, recycled content carpets are not always environmentally preferred over non-recycled content carpets. Another commenter stated that the development of an end of life recovery infrastructure has to precede the broad availability of postconsumer recycled materials for manufacturing.

One commenter believes EPA improperly restricted nylon backing products to those made from PVC or vinyl. The commenter believes that the recovered material used in the backing should not be limited to PVC or vinyl, because other technologies utilize other types of recovered material in nylon carpet backing and there are many other recovered nylon materials and products that can and are being used in the manufacture of carpet backing. (These include old carpets containing urethane, fiberglass or latex.)

Four organizations submitted comments on fly ash (used as a filler material and substitute for calcium carbonate or limestone feedstock) as a recovered material in nylon carpet. Some requested that EPA not accept fly ash as a recovered material for nylon carpet while others believe that EPA should not restrict the types of recovered materials that make up carpet.

A number of commenters suggested recovered materials content ranges that EPA should consider in making final RMAN recommendations for nylon carpet. Since EPA had proposed separate recovered content recommendations for nylon fiber face and backing, many of the commenters recommended recovered materials content ranges for each carpet component (*i.e.*, fiber face and backing, separately). Some commenters recommended recycled content ranges for the entire carpet (*i.e.*, fiber face and backing combined). Copies of all of the comments submitted to EPA in response to the draft RMAN IV of August 2001 are located in the RCRA public docket in docket number F–2001–CP4P–FFFFF. *See* **SUPPLEMENTARY INFORMATION** section above for information on how to view or obtain copies of these comments. Based on the additional information provided in these comments, EPA is considering alternative approaches for nylon carpet, including the possibility of revised recommendations for recycled content based on the entire carpet instead of its components in the final RMAN. Section V, below, provides a summary of one possible approach.

V. A Possible Approach for Nylon Carpet

Based on the public comments received on the draft RMAN IV for nylon carpet (66 FR 45301, dated

August 28, 2001), EPA is considering revising its approach to nylon carpet.[1]

One possible approach, suggested by several commenters, is for EPA to issue recommendations for the nylon carpet face fiber and the nylon carpet backing as one product. Recommending recovered materials content levels for the entire carpet product (*i.e.*, carpet facing and backing combined) may give manufacturers more flexibility to incorporate recovered materials into nylon carpet products, while still realizing a significant environmental benefit. A number of commenters also suggested that EPA issue recommendations that distinguish among various nylon carpet products, such as performance broadloom, new carpet tiles (*i.e.*, modular), and refurbished carpet tiles (modular). EPA believes there may be merit to issuing recommendations in this manner, considering the technical and structural differences in these products. EPA might also consider recommending total recovered content levels, and not postconsumer content levels, for traditional broadloom carpet.

The table below shows possible revisions to EPA's draft RMAN recommendations for nylon carpet. EPA will take into consideration this and other possible approaches if it issues final RMAN recommendations for nylon carpet. The recovered materials content ranges shown in the table were developed after review of all of the recovered materials content ranges provided by commenters, whether commenters suggested recovered materials content ranges for face fiber and backing separately or recovered materials content ranges for face fiber and backing combined.

POSSIBLE RECOMMENDED RECOVERED MATERIALS CONTENT LEVELS FOR NYLON CARPET [1]

Product	Material (component into which the material will get recycled)	% Postconsumer content [3 4]	% Total recovered content [3 4]
Nylon carpet (performance broadloom) [2]	Nylon (fiber face) Old carpets [5] (structured backing) Vinyl (structured backing).	8–25	30–60
Nylon carpet (new modular)	Nylon (fiber face) Old carpets [5] (structured backing) Vinyl (structured backing).	8–25	30–60
Nylon carpet (refurbished modular)	Old carpet tiles	90–100	90–100

[1] These recommendations would not preclude a procuring agency from purchasing carpet made from other materials such as acrylic or wool. They would simply require that procuring agencies, when purchasing nylon carpet, purchase it with recovered materials when it meets applicable specification and performance requirements.

[2] Performance nylon carpet products, which may include broadloom and modular carpet (tiles), are structured back products that have secondary backings made of urethane, polypropylene, vinyl, or a ''hot melt'' coating. Some of the materials used in this secondary backing may be recovered. Therefore, the recovered material content ranges here are inclusive of both the fiber face and backing.

[3] EPA's carpet recommendations are expressed as percentage, by weight, of the entire carpet.

[4] EPA's recommendations would exclude materials that serve as fillers and binding agents (*e.g.*, coal fly ash) as counting toward the recovered material content requirement for this designation.

[5] Old carpets may contain a variety of materials, including, but not limited to, nylon, polyurethane (PUR), polypropylene (PP), polyethylene (PE), polyethylene terephthalate (PET), latex, vinyl, and fiberglass.

VI. What Comments Is EPA Requesting?

EPA requests comments, including additional supporting documentation and information, on the following topics, as well as any other topics that commenters want to address: (1) The recovered materials content ranges (both postconsumer content and total recovered materials content); (2) the delineation of carpet products (*e.g.,* broadloom vs. modular/tile, and traditional broadloom vs. performance broadloom); (3) any quantifiable data to address the availability of postconsumer and total recovered content nylon for use in nylon face fiber and/or backing; (4) whether including nylon carpet in the CPG is inconsistent with environmental goals established in other industry environmental programs such as the Carpet America Recovery Effort (CARE); and (5) whether the agency should or should not recommend recycled content for traditional broadloom carpets and, if it does, whether both postconsumer and total recovered content recommendations should be made. EPA requests that any comments submitted regarding recycled content include recommended recycled content ranges and some rationale or justification for those recommended ranges.

Dated: July 8, 2003.

Matthew Hale,

Deputy Director, Office of Solid Waste.

[FR Doc. 03–17896 Filed 7–15–03; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK

[Public Notice 55]

Agency Information Collection Activities: Proposes Collection; Comment Request

AGENCY: Export-Import Bank of the United States.

ACTION: Notice and request for comments.

SUMMARY: The Export-Import Bank, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments should be received on or before September 15, 2003 to be assured of consideration.

ADDRESSES: Direct requests for additional information to Angela Beckham, Export-Import Bank of the U.S., 811 Vermont Avenue, NW., Washington, DC 20571, (202) 565–3418. Direct comments to David Rostker, Office of Management and Budget, Office of Information And Regulatory Affairs, NEOB Room 10202, Washington, DC 20503.

SUPPLEMENTARY INFORMATION:

Titles and Form Numbers: Application for Medium-Term Insurance or Guarantee EIB Form 03–02.

OMB Number: New.

Type of Review: New collection.

Need and Use: The information requested enables the applicant to

[1] The Agency will respond to all comments on nylon carpet, including those submitted on the August 28, 2001 proposed CPG IV and draft RMAN IV, when it makes a final decision regarding the CPG and RMAN for nylon carpet.

provide Ex-Im Bank with the information necessary to obtain legislatively required assurance of repayment and fulfills other statutory requirements. The form encompasses medium-term financial guarantees and insurance polices.

Affected Public: It affects all entities involved in the export of U.S. goods and services, including exporters, banks, insurance brokers and non-profit or state and local governments acting as facilitators.

Estimated Annual Respondents: 700.

Estimated Time Per Respondent: 1 hour.

Estimated Annual Burden: 700.

Frequency of Reporting or Use: Applications submitted one time.

Dated: July 10, 2003.

Solomon Bush,

Agency Clearance Officer.

BILLING CODE 6690–01–M

EIB Form '03-02
July 2003

Export-Import Bank of the United States

APPLICATION FOR MEDIUM-TERM INSURANCE OR GUARANTEE

This application is to be used for insurance and guarantee transactions with financed amounts of $10 million or less (excluding financed premium) and repayment terms between eighteen months and seven years. Applications for other Ex-Im Bank products can be found on Ex-Im Bank's web site under the "Apply" section.

Additional information on how to apply for Ex-Im Bank Medium-Term Insurance or Guarantees can be found at Ex-Im Bank's web site **http://www.exim.gov/tools/how_to_apply.html.**

Send this application to Ex-Im Bank, 811 Vermont Avenue, NW, Washington, D.C. 20571. Ex-Im Bank will also accept e-mailed PDF and faxed applications. Ex-Im Bank will not require the originals of these applications to be mailed. Please note the applications must be PDF scans of original applications and all required application attachments. (Fax number 202.565.3380, e-mail **exim.applications@exim.gov.**)

APPLICATION FORM

1. FINANCING TYPE REQUESTED

A. Product
- ❑ Insurance
- ❑ Guarantee

B Conversion of a preliminary commitment or a Letter of Interest
- ❑ No
- ❑ Yes. The Ex-Im Bank reference number is: _____

C. Resubmission ❑ Check if this is a resubmission of an application that was previously deemed incomplete or was withdrawn for other reasons. The Ex-Im Bank reference number is: _____

D. Renewal
- ❑ CGF (Credit Guarantee Facility)
- ❑ MTR (Medium-term Repetitive)

2. PARTICIPANTS:

Applicant

Applicant name:		Duns #:
Contact person:		Phone #:
Position title:		Fax #:
Street address:		E-mail:
City:	State/Province:	Nine-digit zip code:
Country:		Taxpayer ID #:
Number of employees:		

Applicant's role in the transaction: ❑ exporter ❑ buyer/ borrower ❑ lender

Primary contact point for Ex-Im Bank inquiries on this transaction: ❑ exporter ❑ broker (insurance only) ❑ lender

This application is a ❑ supplier credit or a ❑ buyer credit.

Broker (Insurance Only)

If none, insert "none."		Ex-Im Bank Broker #:
Name of Broker:		Phone #:
Contact person:	Fax #:	E-Mail:

Exporter. The exporter is the U.S. entity that contracts with the buyer for the sale of the U.S. goods and services.

❑ Check if the exporter is the applicant. Otherwise, complete the information below for each exporter, including ancillary service providers.

Exporter name:		Duns #:
Contact person:		Phone #:
Position title:		Fax #:
Street address:		E-mail:
City:	State/Province:	Nine digit zip code:
Taxpayer ID #:		
Number of employees:		

Supplier. The supplier is the U.S. company that manufactures the goods and/or performs the services to be exported.

❑ Check if the supplier is also the exporter. Otherwise, complete the information below for each supplier, including ancillary service providers.

Supplier name:		Duns #:
Contact person:		Phone #:
Position title:		Fax #:
Street address:		E-mail:
City:	State/Province:	Nine digit zip code:
Taxpayer ID #:		
Number of employees:		

Borrower. The borrower is the entity that agrees to repay the loan.

❑ Check if the borrower is the applicant. If not, complete the information below.

Borrower name:		Duns #:
Contact person:		Phone #:
Position title:		Fax #:
Street address:		E-mail:
City:	State/Province:	Postal code:
Taxpayer ID #:		

Guarantor. The guarantor is the person or entity that agrees to repay the credit if the borrower does not. Refer to the medium-term credit standards (at **http://www.exim.gov/tools/medium-termcreditstandards**) to determine in what situations personal or corporate guarantors are required for medium term transactions. Complete the information below for each guarantor if a guarantor is offered or required.

Guarantor name:		Duns #:
Contact person:		Phone #:
Position title:		Fax #:
Street address:		E-mail:
City:	State/Province:	Postal code:

Buyer. The buyer is the entity that contracts with the exporter for the purchase of the U.S. goods and services. Check if the buyer is also the ❑ borrower or ❑ guarantor. Otherwise, complete the information below.

Buyer name:		Duns #:
Contact person:		Phone #:
Position title:		Fax #:
Street address:		E-mail:
City:	State/Province:	Postal code:
Country:		

End-user. The end-user is the foreign entity that uses the U.S. goods and services. Check if end-user is also the ❑ borrower or ❑ guarantor or ❑ buyer. Otherwise, complete the information below.

End-user name:		Duns #:
Contact person:		Phone #:
Position title:		Fax #:
Street address:		E-mail:
City:	State/Province:	Postal code:
Country:		

Lender. The lender is the company that extends the Ex-Im Bank guaranteed or insured loan to the Borrower. Check if the lender is the ❑ applicant. Otherwise, complete the information below.

Lender name:	Duns #:	MGA# (Guarantees only)
Contact person:		Phone #:
Position title:		Fax #:
Street address:		E-mail:
City:	State/Province:	Nine digit zip code:
Country:		

3. DETAILS OF COVERAGE REQUESTED

A. Coverage Type ❑ Comprehensive Risk
❑ Political Risk Only

B. Special Features Requested

Check the boxes for the coverage that apply to the transaction. View the fact sheets describing the coverage on Ex-Im Bank's web site as noted below. Complete and attach the requested forms.

☐ Pre-shipment cover *Attachment II - Pre-shipment Questionnaire required*	☐ Used Equipment *Attachment E required* **http://www.exim.gov/pub/pdf/95-10ape.pdf**	☐ Co-Financing with Foreign Export Credit Agency *Attachment H required* **http://www.exim.gov/**
☐ Local Cost Support **http://www.exim.gov/products/policies/local_cost.html**	☐ Foreign Currency Guarantee (specify currency) _____ **http://www.exim.gov/products/guarantee/foreign_curr.html**	☐ Environmental Exports Program **http://www.exim.gov/ebd-e-01.html**
☐ Ancillary Service Fees **http://www.exim.gov/products/ebd-m-13.html**	☐ Credit Guarantee Facility **http://www.exim.gov/products/credit_guar.html**	☐ Finance or operating lease. *Attachment III - Lease Questionnaire required*
☐ Nuclear **http://www.exim.gov/products/policies/nuclear/envnucp.html** In addition Nuclear-screening document must be submitted with application.	☐ Other _____	☐ Military/ Security/ Police **http://www.exim.gov/products/policies/military.html**

4. TRANSACTION DESCRIPTION

a) Ex-Im Bank requests that each exporter fill out and attach a Content Report detailing the goods and services being exported. The content report is located at **www.exim.gov/pub/txt/ebd-m-58.doc**. If the content report(s) are not being submitted at this time, fill out the following:

Describe the goods and services to be exported. Include a section for each exporter including the name, make, model, manufacturer/supplier, SIC or NAICS Code (if known), number of units, unit price and use for the goods:

b) Describe the purpose of the transaction. Include answers to the following: Will the goods be used to create or expand production capacity for an exportable product? Are the goods and services destined for an identifiable project? If so, provide information on the total estimated project costs in US dollars. Also provide information as to other sources of financing for the project including working capital.

c) Indicate whether an application for support of this export contract or a related project has been filed with the Agency for International Development, Maritime Administration, Overseas Private Investment Corporation, Trade Development Agency or a multilateral financing agency. If so include a brief description of the additional support.

5. REQUESTED FINANCING AMOUNTS AND STRUCTURE

Ex-Im Bank support is based on the value of the eligible goods and services in the exporter's supply contract(s) or purchase order(s). The total level of support will be the lesser of: 85% of the value of all eligible goods and services; or 100% of the U.S. content included in all eligible goods and services in the exporters' supply contracts. In addition, Ex-Im Bank may also finance certain local costs, ancillary services as approved, and the exposure fee/premium. Fill out the chart below to determine estimated eligible amounts.

		Definition	US$
A	Supply Contracts or Purchase Orders	The aggregate price of all goods and services in all the supply contract(s) or purchase order(s), including local costs, ancillary services, and excluded goods and services. Break out ancillary services in A ii.	Ai Aii
B	Excluded Goods and Services	The aggregate price of all goods and services that are not eligible for or are excluded from Ex-Im Bank support (e.g. goods not shipped from the U.S. and excluded ancillary services). Local costs should not be included in this line.	
C	Total Local Costs	The aggregate price of all goods manufactured in the end-user's country and all services provided by residents of the purchaser's country. Ex-Im Bank may be able to finance these amounts up to 15% of D below.	
D	Net Contract Price	A minus B minus C	
E	Eligible Foreign content	The aggregate cost of any goods produced or manufactured outside the U.S, or services provided by third country personnel or foreign freight costs and foreign insurance included in the net contract price (line D), (e.g. foreign items shipped from the US)	
F	U.S. Content	D minus E	
G	Cash Payment	This amount must be the greater of E or 15% of D	
H	Local Cost Financing Requested	This can be no more than 15% of D	
I	**Financed Amount Requested** (Excluding Exposure Fee)	D minus G plus H	

A. Exposure Fee (Guarantees)/ Premium (Insurance). Check one box.

- ❑ Ex-Im Bank to finance the fee/premium, which will be paid as the credit is drawn down.
- ❑ Ex-Im Bank to finance the fee/premium, which will be paid up front.
- ❑ Ex-Im Bank will not finance the fee/premium, and it will be paid as the credit is drawn down.
- ❑ Ex-Im Bank will not finance the fee/premium, and it will be paid up front.

B. Transaction Structure.

i. Principal Repayment Term. (years) _____. Unless otherwise requested, equal installments of principal will be repaid semi-annually beginning six months after the starting point.

ii Starting Point. The starting point is generally the event that marks the fulfillment of the exporter's contractual responsibility. See Ex-Im Bank's fact sheets on starting points and reach-back policies at **www.exim.gov.** (Check one box.)

- ❑ Shipment (single shipment)
- ❑ Final Shipment (multiple shipments)
- ❑ Mean Shipment (multiple shipments)
- ❑ Services Completion.
- ❑ Completion of Installation. Specify date:_____
- ❑ Project Completion. Specify date: _____

iii Shipment Period. Shipments will be completed and/or services will be performed from: (month/year): [ ] to [ ] (month/year) excluding any acceptance, retention, or warranty period. If shipment is planned for a certain number of days after Ex-Im Bank authorization, so note:

_____

iv. Promissory Notes

For transactions with multiple shipments indicate:

- ❑ There will be one promissory note per shipment.
- ❑ Disbursements will be consolidated into one promissory note.

v. Interest rate

The interest rate to be charged on the guaranteed/insured loan is: _____

6. REASON FOR REQUESTING EX-IM BANK SUPPORT.

Ex-Im Bank will finance the export of U.S. goods and services if it can be demonstrated that Ex-Im Bank support is necessary for the transaction to proceed. Check one of the boxes below describing why support is necessary.

- ❑ The exporter is aware that foreign companies are competing, or are expected to compete for the sale. Provide company name, country, and (if known/applicable) the supporting export credit agency.

_____

_____

_____

- ❑ The exporter is aware that foreign companies manufacture comparable goods and services that are sold in the buyer's market with export credit agency support available. Provide company name, country, and (if known/applicable) the supporting export credit agency.

_____

_____

_____

❑ There is limited availability of private financing (from either external or domestic sources). Indicate how financing is constrained by checking the appropriate box.

❑ No availability of economically viable interest rates on terms over one to two years.
❑ Financial institution lending capacity limits reached for either borrower and/or country.
❑ Other (please describe). _____

7. CREDIT INFORMATION

❑ The information requested in *Attachment I: Credit Information* is attached.

8. OTHER INFORMATION AND CERTIFICATIONS

A. General Information - Provide the following:
❑ Credit Agency report(s) on the exporter(s).
❑ Annex A to the Master Guarantee Agreement (Guarantees only) at **http://www.exim.gov/pub/pdf/mt-anx-exec.pdf.**
❑ Lender's mandate letter (required when applicant is a financial institution).

B. Supply Contracts Between the Exporter and Buyer.
❑ Sales contract(s), pro forma invoice(s), or purchase order(s) are attached.
❑ This is a request for a repetitive sales insurance policy (MTR) or a credit guarantee facility (CGF) and no contract is attached.

C. Commitment Fee Agreement. (Guarantees Only)
For a guarantee, a commitment fee accrues starting 60 days after the authorization of a final commitment and is payable semiannually in arrears on a schedule determined at the time of authorization. The commitment fee is 1/8 of 1% per annum on the un-disbursed and un-cancelled balance of the guaranteed loan. Choose one of the options below regarding the payment of the commitment fee:

❑ The applicant is the borrower, and by signing the application, is irrevocably committing to pay the commitment fee.
❑ The applicant is the guaranteed lender, and is (check one):
❑ signing the application which irrevocably commits it to pay the fee, or
❑ signing the application and enclosing with it an Ex-Im Bank standard form fee letter from the borrower (at **http://www.exim.gov/pub/pdf/mt-anx-exec.pdf**).
This letter irrevocably commits the borrower to pay the fee.
❑ The applicant is the exporter, and is signing the application and enclosing with it an Ex-Im Bank standard form fee letter from the ❑ borrower or ❑ guaranteed lender (at **http://www.exim.gov/pub/pdf/mt-anx exec.pdf**).
This letter irrevocably commits the borrower or guaranteed lender to pay the fee.

D. Anti-Lobbying Disclosure Form
Please refer to the Anti-Lobbying Declaration/Disclosure forms (at **http://www.exim.gov/pub/pdf/95-10apd.pdf**) and include a signed copy of the appropriate form(s) with your application.

E. Certifications
The undersigned certifies that the facts stated and the representations made in this application and any attachments to this application are true, to the best of the applicant's knowledge and belief after due diligence, that the applicant has not omitted any material facts. The undersigned certifies that neither it, nor its principals, have within the past three years been a) debarred, suspended, declared ineligible from participating in, or voluntarily excluded from participation in, a covered transaction, b) formally proposed for debarment, with a final determination still pending,

c) indicted, convicted or had a civil judgment rendered against it for any of the offenses listed in the Regulations, d) delinquent on any substantial debts owed to the U.S. Government or its agencies or instrumentalities as of the date of execution of this application; or e) the undersigned has received a written statement of exception from Ex-Im Bank attached to this certification, permitting participation in this Covered Transaction despite an inability to make certifications a) through d) in this paragraph. We further certify that we have not and will not knowingly enter into any agreements in connection with the Goods and Services with any individual or entity that has been debarred, suspended, declared ineligible from participating in, or voluntarily excluded from participation in a Covered Transaction. All capitalized terms not defined herein shall have the meanings set forth in the Government-wide Non- procurement Suspension and Debarment Regulations - Common Rule (Regulations).

In addition, we further certify that we have not, and will not, engage in any activity in connection with this transaction that is a violation of a) the Foreign Corrupt Practices Act of 1977, 15 U.S.C. 78dd-1, et seq. (which provides for civil and criminal penalties against individuals who directly or indirectly make or facilitate corrupt payments to foreign officials to obtain or keep business), b) the Arms Export Control Act, 22 U.S.C. 2751 et seq., c) the International Emergency Economic Powers Act, 50 U.S.C. 1701 et seq., or d) the Export Administration Act of 1979, 50 U.S.C. 2401 et seq.; nor have we been found by a court of the United States to be in violation of any of these statutes within the preceding 12 months, and to the best of our knowledge, the performance by the parties to this transaction of their respective obligations does not violate any other applicable law.

The applicant certifies that the representations made and the facts stated in this application and its attachments are true, to the best of its knowledge and belief, and it has not misrepresented or omitted any material facts. It further understands that these certifications are subject to the penalties for fraud against the U.S. Government (18 USC 1001, et. seq.)

8. NOTICES

The applicant is hereby notified that information requested by this application is done so under authority of the Export-Import Bank Act of 1945, as amended (12 USC 635 et. seq.); provision of this information is mandatory and failure to provide the requested information may result in Ex-Im Bank being unable to determine eligibility for support. The information provided will be reviewed to determine the participants' ability to perform and pay under the transaction referenced in this application. Ex-Im Bank may not require the information and applicants are not required to provide information requested in this application unless a currently valid OMB control number is displayed on this form (see upper right of each page).

Public Burden Statement: Reporting for this collection of information is estimated to average 1 hour per response, including reviewing instructions, searching data sources, gathering information, completing, and reviewing the application. Send comments regarding the burden estimate, including suggestions for reducing it, to Office of Management and Budget, Paperwork Reduction Project OMB# 3048-0009, Washington, D.C. 20503.

The information provided will be held confidential subject to the Freedom of Information Act (5 USC 552) the Privacy Act of 1974 (5 USC 552a), and the Right to Financial Privacy Act of 1978 (12 USC 3401), except as otherwise required by law. Note that the Right to Financial Privacy Act of 1978 provides that Ex-Im Bank may transfer financial records included in an application for a loan or loan guarantee, or concerning a previously approved loan or loan guarantee, to another Government authority as necessary to process, service or foreclose on a loan or loan guarantee, or collect on a defaulted loan or loan guarantee.

Applicant (company) name: _____

Name and tittle of authorized officer: _____

Signature of authorized officer: _____

Date: _____

APPLICATION FOR MEDIUM-TERM INSURANCE OR GUARANTEE

Attachment I: Credit Information Requirements

Directions: Please check each box to indicate information submitted. For information not applicable to the transaction write N/A in the box. All boxes should either be checked or marked N/A. Parts 1 and 2 indicate information required to process a Medium-term Insurance or Guarantee transaction. Part 3 provides a list of items that are optional. Sending information contained in this section may expedite the processing of your application.

1. INFORMATION ON THE BORROWER:

- ❑ If the primary source of repayment for the transaction is a corporate guarantor provide only 1a), 1b) and 1 c) on the borrower;
- ❑ If current information (within the last six months) as described below is on file at Ex-Im Bank, indicate Guarantee or Policy # _____.
- ❑ If the primary source of repayment is the borrower provide the information noted in 1 a) – 1 g) below (note optional information described in part 3):

a) Company description and ownership.

- ❑ Provide a concise description of the company origin, legal status, facilities, business activities and primary markets.
- ❑ Provide the name of each owner of at least 10% of company shares and his/her ownership percent.

b) Related party information

- ❑ Provide names and a brief description of subsidiaries, parent company, and/or commonly owned companies ("related parties").
- ❑ Indicate which, if any, of the related parties account for more than 25% of the borrower's sales or purchases during the last fiscal year.
- ❑ Indicate which, if any, related parties extend loans to the borrower or to whom the borrower extends loans, if loans are material to the borrower. Materiality is defined as 10% of the borrower's total assets.
- ❑ Provide details of guarantees given on behalf of related parties by the borrower, if loans are material to the borrower.

c) Credit agency report

- ❑ Provide a credit agency report on the borrower not older than six months from date of application, or
- ❑ Check if credit agency report is not applicable because the borrower is a financial institution (bank), or a foreign government agency.

d) Creditor Bank or Supplier References

- ❑ Provide a creditor bank reference prepared within six months of the application date. Report should include bank name, address, and length of relationship, amount, currency, and terms of secured and unsecured credit and repayment experience.
- ❑ If the borrower does not have any financial institution creditors, provide two supplier references. Supplier references should be dated within six months of the application and include years of credit experience, annual sales, the terms of sale, the amount of the last sale, the recent high credit, the amount currently outstanding, details on any past due amounts, and repayment experience.

e) Financial Statements

There are certain requirements for all financial statements, regardless of the amount of the transaction. These are as follows:

i) ❑ Provide financial statements for the previous three fiscal years, as well as interim statements if the latest fiscal year end statements are dated more than nine months from the date of application. When interim state ments are provided, also provide interim statements for the same interim period for the previous year (for comparative purposes).

ii) ❑ A summary of significant accounting principles must accompany all financial statements. These should outline, at a minimum, the depreciation methods and rates, valuation methods for inventory, fixed assets and investments and the inflation accounting method used, if any. For construction companies, a descrip tion of the revenue recognition method should be included. Additionally, financial statements should break out depreciation expense, gross interest expense, tax expense and current maturities of long-term financial institution or supplier debt, if any.

iii) ❑ For all financial statements that present combined or consolidated results, provide the percentage of total assets, total liabilities, tangible net worth, sales, and net income represented by each entity that is partici-pating in the transaction as the buyer, borrower, guarantor or end-user. A combining/combing worksheet would have all this information.

There are certain additional financial statement information requirements that depend on the amount of the financing request as follows:

iv) ❑ For financed amounts of up to and including $1 million: Audited financial statements are preferred but not required for non-financial institutions. Audited statements are required for financial institutions. While English language statements are preferred, Ex-Im Bank will accept Spanish language financials statements.

v) ❑ For financed amounts of greater than $1 million up to and including $5 million: While English language statements are preferred, Ex-Im Bank will accept Spanish language financial statements. Financial state-ments must be audited by an external independent auditor.

vi) ❑ For financed amounts of greater than $ 5 million: Financial statements must be audited by an external independent auditor. Statements must be in English.

f) Market indications, if available, are as follows:

Name of rating agency:_____ Rating:_____ Date:_____

Include the debt rating reports issued by the rating agency, and if applicable, the prospectus for a debt or equity offering during the two years prior to the application date.

g) Supplemental Credit Questions.

❑ Provide the answers to the questions listed in Attachment C to the Medium-term Credit Standards for transac-tions of greater than U.S. $5 million up to and including $10 million where the primary source of repayment is a non-financial institution that does not have market indications. These questions are located on Ex-Im Bank's web site at **www.exim.gov/tools/medium-termcreditstandards**.

2. INFORMATION ON THE CORPORATE GUARANTOR (S):

❑ Not applicable. Refer to the Medium-Term Credit Standards at (**http://www.exim.gov/tools/mediumtermcreditstandards**) to determine in what situations corporate guarantors are required for medium term transactions.

❑ If the corporate guarantor is not the primary source of repayment, provide 1 a), and 1 b and 1 c as described above.

❑ If the corporate guarantor is the primary source of repayment, provide the information noted in 1 a) – 1 g)

3. OPTIONAL items which the applicant may attach. These may expedite the processing of your application.

- ❑ Financial spreads on the borrower and/or guarantor designated as the primary source of repayment. See Ex-Im Bank's website for spreading conventions, which should be used as guidelines.
- ❑ Calculation of the financial performance criteria of Ex-Im Bank's Medium-Term Credit Standards on the borrower or guarantor designated as the primary source of repayment.
- ❑ Mitigating factors for any of the performance criteria that are not met.
- ❑ Supplemental credit questions as detailed in I g) for deals of less than $5 million.
- ❑ Translations of Spanish language financial statements, if applicable.
- ❑ Explanations of any adverse information contained in the credit report, references and/or financial statements, including interims.

APPLICATION FOR MEDIUM-TERM INSURANCE OR GUARANTEE

Attachment II: Pre-shipment Questionnaire

Complete this form only if you are requesting pre-shipment insurance coverage for your transaction. Details on pre-shipment coverage can be found at **http://www.exim.gov/pub/ins/pdf/eib01-04.pdf**.

Details of Coverage Requested:

a) Provide the reason pre-shipment coverage is being requested: _____

b) Indicate the date the contract was executed or the anticipated date of signing: _____

c) Indicate the estimated period between the contract date and the final shipment date of items: _____

d) Provide a schedule of any progress payments made or to be made by the borrower during the pre-shipment period, or indicate none: _____

APPLICATION FOR MEDIUM-TERM INSURANCE OR GUARANTEE

Attachment III: Leasing Questionnaire (Under Development)

[FR Doc. 03–17935 Filed 7–15–03; 8:45 am]
BILLING CODE 6690–01–C

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 96–45; DA 03–1893]

Corr Wireless Communications, LLC Petition for Designation as an Eligible Telecommunications Carrier in Certain Rural Service Areas in the State of Alabama

AGENCY: Federal Communications Commission.

ACTION: Notice; solicitation of comments.

SUMMARY: In this document, the Wireline Competition Bureau sought comment on the Corr Wireless Petition.

DATES: Comments are due on or before July 28, 2003. Reply comments are due on or before August 4, 2003.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. *See* **SUPPLEMENTARY INFORMATION** for further filing instructions.

FOR FURTHER INFORMATION CONTACT: Cara Voth, Attorney, Wireline Competition Bureau, Telecommunications Access Policy Division, (202) 418–7400, TTY (202) 418–0494.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Public Notice, CC Docket No. 96–45, released June 5, 2003. On May 13, 2003, Corr Wireless Communications, LLC (Corr Wireless) filed with the Commission a petition under section 214(e)(6) seeking designation as an eligible telecommunications carrier (ETC) to receive Federal universal service support for service offered in the Alabama rural service areas of the following telephone companies: Ardmore Telephone Company; Blountsville Telephone Company; Butler Telephone Company; Farmers Telephone Co-op; CenturyTel; New Hope Telephone Company; OTELCO; OTELCO-Brindlee Mountain Division; OTELCO-Hopper Division; and Peoples Telephone Company. Corr Wireless contends that the Alabama Public Service Commission (Alabama Commission) lacks jurisdiction to consider Corr Wireless's petition because wireless carriers are not subject to state jurisdiction in Alabama. Hence, according to Corr Wireless, the Commission has jurisdiction under section 214(e)(6) to consider and grant its petition. Corr Wireless also maintains that it satisfies all the statutory and regulatory prerequisites for ETC designation, and that designating Corr Wireless as an ETC will serve the public interest.

The petitioner must provide copies of its petition to the Alabama Commission. The Commission also sent a copy of this Public Notice to the Alabama Commission by overnight express mail to ensure that the Alabama Commission is notified of the notice and comment period.

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments as follows: comments are due on or before July 28, 2003, and reply comments are due on or before August 4, 2003. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121, May 1, 1998.

Comments filed through the ECFS can be sent as an electronic file via the Internet to <*http://www.fcc.gov/e-file/ecfs.html*>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov,* and should include the following words in the body of the message, ''get form <your e-mail address>.'' A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be sent to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

Parties who choose to file by paper also must send three paper copies of their filing to Sheryl Todd, Telecommunications Access Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street SW., Room 5–B540, Washington, DC 20554. In addition, commenters must send diskette copies to the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20054.

Pursuant to § 1.1206 of the Commission's rules, 47 CFR 1.1206, this proceeding will be conducted as a permit-but-disclose proceeding in which ex parte communications are permitted subject to disclosure.

Federal Communications Commission.

Paul Garnett,

Acting Assistant Division Chief, Wireline Competition Bureau, Telecommunications Access Policy Division.

[FR Doc. 03–17975 Filed 7–15–03; 8:45 am]
BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

PREVIOUSLY ANNOUNCED DATE AND TIME: Tuesday, July 15, 2003, 10 a.m. Meeting closed to the public. This meeting was cancelled.

DATE AND TIME: Tuesday, July 22, 2003 at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

* * * * *

DATE AND TIME: Thursday, July 24, 2003 at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and approval of minutes.

Final Rules and Explanation and Justification on Public Financing of Presidential Candidates and National Nominating Conventions.

Draft Advisory Opinion 2003–17: James W. Treffinger and Treffinger for Senate Committee by counsel, Karin Riecker.

Draft Advisory Opinion 2003–18: Bob Smith for U.S. Senate.

Routine Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 03–18147 Filed 7–14–03; 2:34 pm]

BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register.**

Agreement No.: 011677–006.

Title: United States Australasia Agreement.

Parties:

P&O Nedlloyd Limited
Australia-New Zealand Direct Line, a division of CP Ships (UK) Limited
Contship Containerlines, a division of CP Ships (UK) Limited
Hamburg-Süd
Wallenius Wilhelmsen Lines AS
CMA CGM, S.A.

Synopsis: The proposed agreement modification suspends the conference through December 31, 2003, while permitting certain limited activities to continue during that period.

Agreement No.: 011823–002.

Title: Contship/P&O Nedlloyd Vessel Sharing Agreement.

Parties:

Contship Containerlines, a division of CP Ships (UK) Limited
P&O Nedlloyd Limited/P&O Nedlloyd BV (acting as a single party).

Synopsis: The subject agreement modification revises the sailing schedule for the 10 vessel Eastabout service to eliminate New York and Fremantle in Australia.

Agreement No.: 011824–001.

Title: Contship/P&O Nedlloyd—CMA CGM/Marfret Agreement.

Parties:

Contship Containerlines, a division of CP Ships (UK) Limited
P&O Nedlloyd Limited/P&O Nedlloyd BV (acting as a single party)
CMA CGM S.A./CMA CGM (UK) Limited (acting as a single party)
Compagnie Maritime Marfret S.A.

Synopsis: The subject agreement modification revises the sailing schedule for the 10 vessel Eastabout service to eliminate New York and Fremantle in Australia.

Agreement No.: 011825–001.

Title: CS/PONL—HSDG Agreement.

Parties:

Contship Containerlines, a division of CP Ships (UK) Limited
P&O Nedlloyd Limited/P&O Nedlloyd BV (acting as a single party)
Hamburg-Südamerikanische Dampfschifffahrts-Gesellschaft KG

Synopsis: The subject agreement modification revises the sailing schedule for the 10 vessel Eastabout service to eliminate New York and Fremantle in Australia.

Agreement No.: 011826–001.

Title: CS/PONL—Hapag-Lloyd Agreement.

Parties:

Contship Containerlines, a division of CP Ships (UK) Limited
P&O Nedlloyd Limited/P&O Nedlloyd BV (acting as a single party)
Hapag-Lloyd Container Linie GmbH

Synopsis: The subject agreement modification revises the sailing schedule for the 10 vessel Eastabout service to eliminate New York and Fremantle in Australia.

Dated: July 11, 2003.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 03–17999 Filed 7–15–03; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Revocations

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, effective on the corresponding date shown below:

License Number: 16973F.
Name: A.G. International Freight Forwarding, Inc.
Address: 212 Livermore Avenue, Staten Island, NY 10314.
Date Revoked: April 7, 2003.
Reason: Failed to maintain a valid bond.

License Number: 4651F.
Name: A.T.M.C. Inc.
Address: 2208 NW Market Street, Suite 505, Seattle, WA 98107.
Date Revoked: June 21, 2003.
Reason: Failed to maintain a valid bond.

License Number: 7266N.
Name: America First International, Inc.
Address: 5409 NW 72nd Avenue, Miami, FL 33166.
Date Revoked: June 14, 2003.
Reason: Failed to maintain a valid bond.

License Number: 15908N.
Name: BDP Transport, Inc.
Address: 510 Walnut Street, Philadelphia, PA 19106.
Date Revoked: April 10, 2003.
Reason: Surrendered license voluntarily.

License Number: 14423N.
Name: Balor Marine Corp.
Address: 27 Sunlit Forest Drive, Spring, TX 77381.
Date Revoked: June 11, 2003.
Reason: Failed to maintain a valid bond.

License Number: 11085N.
Name: Beckers International Corp. dba B.I.C. Line.
Address: 4205 NW 36th Avenue, Miami, FL 33142.
Date Revoked: June 22, 2003.
Reason: Failed to maintain a valid bond.

License Number: 14107N.
Name: Caribbean Shipping Services, Inc.
Address: 1505 Dennis Street, Jacksonville, FL 32204.
Date Revoked: June 20, 2003.
Reason: Failed to maintain a valid bond.

License Number: 16805F.
Name: E.I.B. Brokers, Inc.
Address: 2550 NW 72nd Avenue, Miami, FL 33122.
Date Revoked: June 26, 2003.
Reason: Failed to maintain a valid bond.

License Number: 14952N.
Name: Eagle Transportation Services, Inc.
Address: 848 Jesse Jewell Parkway, P.O. Box 100024, Gainesville, GA 30501.
Date Revoked: April 23, 2003.
Reason: Failed to maintain a valid bond.

License Number: 11949N.
Name: Eastern Trans Line, Inc.
Address: 337 Route 17 S., Suite 216, Hasbrouck Heights, NJ 07604.
Date Revoked: June 23, 2003.
Reason: Failed to maintain a valid bond.

License Number: 15565N.
Name: International Equipment Logistics, Inc.
Address: 953 Westminster Avenue, Hillside, NJ 07205–2944.
Date Revoked: June 18, 2002.
Reason: Failed to maintain a valid bond.

License Number: 2808F.
Name: International Trading Partners, Inc. dba ITP.
Address: c/o 91–13 85th Street, Woodhaven, NY 11421.
Date Revoked: June 10, 2003.
Reason: Surrendered license voluntarily.

License Number: 17817F.
Name: Master Freight International Ltd.
Address: 6312 Militia Court, Bensalem, PA 19020.
Date Revoked: July 1, 2003.
Reason: Surrendered license voluntarily.

License Number: 17109N.
Name: Namgene Paik dba Southern Logistic Service.
Address: 8735 Bellanca Avenue, Suite #B, Los Angeles, CA 90045.
Date Revoked: June 28, 2003.
Reason: Failed to maintain a valid bond.

License Number: 16039N.
Name: Neville Johnson dba P.J. Shipping Co.
Address: 112–29 Farmers Boulevard, St. Albans, NY 11412.
Date Revoked: June 21, 2003.
Reason: Failed to maintain a valid bond.

License Number: 4132F.
Name: Deborah S. Witte.
Address: 1656 Poplar Hill Drive, Cross, SC 29436.
Date Revoked: June 4, 2003.
Reason: Failed to maintain a valid bond.

Sandra L. Kusumoto,
Director, Bureau of Consumer Complaints and Licensing.

[FR Doc. 03–17997 Filed 7–15–03; 8:45 am]
BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as a Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR part 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel Operating Common Carrier Ocean Transportation Intermediary Applicants

Fair Deal Shipping and Trading Inc., 1437 Pine Hills Road, Orlando, FL 32808. Officers: Ruby Wood, President (Qualifying Individual), James P. Gibson, Vice President.

Lucky Freight, Inc., 1533 Del Mar Avenue, Ste. H, San Gabriel, CA 91776. Officer: Gang (Rocky) Shen, President (Qualifying Individual).

Bon Voyage Logistics, Inc., 17595 Almahurst #216, City of Industy, CA 91748. Officers: Kuo-Long (Arno) Chang, President (Qualifying Individual), Jack Cheng, Secretary.

Apex Consolidated Corporation, 435 Main Street, 2B, Metuchen, New Jersey 08840. Officers: Cheuk Kwan, Chiu, President (Qualifying Individual), Pui Yin, Chiu, Secretary.

CL America, LLC, 1209 John Reed Court, Suite A, City of Industry, CA 91745. Officer: Joning Huang, CEO (Qualifying Individual).

Globe Shipping, Inc. dba GSI, 69–08 197th Street, 2nd Floor, Fresh Meadows, NY 11365. Officer: Chad Lu, General Manager (Qualifying Individual).

Aline Transit Inc., 43–36 Robinson Street, 4K, Flushing, NY 11355. Officers: Arthur Lai, Vice President (Qualifying Individual), Henry Zhang, President.

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicant

Joe Souquette, 8531 Farralone Avenue, West Hills, CA 91304, Sole Proprietor.

Dated: July 11, 2003.

Bryant L. VanBrakle,
Secretary.

[FR Doc. 03–17998 Filed 7–15–03; 8:45 am]
BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 8, 2003.

A. Federal Reserve Bank of Atlanta (Sue Costello, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30303:

1. Citizens Banking Corporation, Frostproof, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens Bank of Frostproof, Frostproof, Florida.

Board of Governors of the Federal Reserve System, July 10, 2003.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 03–17932 Filed 7–15–03; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting Notice

Agency Holding the Meeting: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:30 a.m., Monday, July 21, 2003.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

FOR FURTHER INFORMATION CONTACT: Michelle A. Smith, Assistant to the Board; 202–452–2955.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at *http://www.federalreserve.gov* for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: July 11, 2003.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 03–18076 Filed 7–11–03; 5:03 pm]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Announcement of Availability of Funds for Adolescent Family Life Research Grants; Correction

AGENCY: Office of Population Affairs, Office of Public Health and Science, Office of the Secretary, HHS.

ACTION: Notice; correction.

SUMMARY: The Office of Population Affairs published a notice in the **Federal Register** of June 20, 2003 announcing the availability of funds for adolescent family life research grants. This Notice did not include the RFA (Request for Applications) number. This Notice corrects that error.

FOR FURTHER INFORMATION CONTACT: Eugenia Eckard, 301–594–4001.

Correction

In the **Federal Register** of June 20, 2003, in FR Doc. 03–15579, beginning on page 36992, an RFA number should have been included. On page 36994, section IV, add the following sentence to the end of the third paragraph: ''Reference RFA number HS–03–008''.

Dated: July 8, 2003.

Alma L. Golden,

Deputy Assistant Secretary for Population Affairs.

[FR Doc. 03–17917 Filed 7–15–03; 8:45 am]

BILLING CODE 4150–30–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Solicitation of Public Review and Comment on Research Protocol: HIV Replication and Thymopoiesis in Adolescents

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of Public Health and Science, Office for Human Research Protections.

ACTION: Notice.

SUMMARY: The Office for Human Research Protections (OHRP), Office of Public Health and Science, Department of Health and Human Services (HHS) is soliciting public review and comment on a proposed research protocol entitled ''HIV Replication and Thymopoiesis in Adolescents.'' The proposed research would be supported by a grant awarded by the National Institute of Allergy and Infectious Diseases, National Institutes of Health. Public review and comment are solicited regarding the proposed research protocol pursuant to the requirements of HHS regulations at 45 CFR 46.407.

DATES: To be considered, written or electronic comments on the proposed research must be received on or before 4:30 p.m. EST September 2, 2003.

ADDRESSES: Submit written comments to: Ms. Kelley Booher, Division of Policy, Planning, and Special Projects, Office for Human Research Protections, 1101 Wootton Parkway, Suite 200, The Tower Building, Rockville, MD 20852, telephone number (301) 402–5942 (not a toll-free number). Comments also may be sent via facsimile at (301) 402–0527 or by e-mail to: *407panel04@osophs.dhhs.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Leslie K. Ball, Office for Human Research Protections, The Tower Building, 1101 Wootton Parkway, Suite 200, Rockville, MD 20852; telephone (301) 496–7005; fax (301) 402–0527; e-mail *LBall@osophs.dhhs.gov.*

SUPPLEMENTARY INFORMATION: All studies conducted or supported by HHS which are not otherwise exempt and which propose to involve children as subjects require institutional review board (IRB) review in accordance with the provisions of HHS regulations for the protection of human subjects at 45 CFR part 46, subpart D. Pursuant to HHS regulations at 45 CFR 46.407, if an IRB reviewing a protocol to be conducted or supported by HHS does not believe that the proposed research involving children as subjects meets the requirements of HHS regulations at 45 CFR 46.404, 46.405, or 46.406, the research may proceed only if the following conditions are met: (a) The IRB finds that the research presents a reasonable opportunity to further the understanding, prevention, or alleviation of a serious problem affecting the health or welfare of children; and (b) the Secretary (HHS), after consultation with a panel of experts in pertinent disciplines (for example: science, medicine, education, ethics, and law) and following opportunity for public review and comment, determines either: (1) That the research in fact satisfies the conditions of 45 CFR 46.404, 46.405, or 46.406, or (2) that the following conditions are met: (i) The research presents a reasonable opportunity to further the understanding, prevention, or alleviation of a serious problem affecting the health or welfare of children; (ii) the research will be conducted in accordance with sound ethical principles; and (iii) adequate provisions are made for soliciting the assent of children and the permission of their parents or guardians, as set forth in 45 CFR 46.408.

HHS received a request from the University of California, Los Angeles (UCLA) pursuant to the provisions of HHS regulations at 45 CFR 46.407. The principal investigator of the above-referenced research protocol, Dr. Paul Krogstad, proposes a longitudinal study evaluating the pathogenic properties of Human Immunodeficiency Virus (HIV), the suppressive and selective power of antiretroviral therapy, and the regenerative capacity of the immune system in adolescents and young adults ages 13 to 24 years with perinatally-acquired HIV infection, compared with two age-matched control groups:

adolescents who acquired HIV infection via adult behaviors (sexual contact and illicit drug use), and seronegative adolescents. The proposed research protocol would be funded by the National Institute of Allergy and Infectious Diseases, National Institutes of Health (NIH), under grant number R01 AI 051996.

The specific aims of the study are: (1) To compare quantitative parameters of thymopoiesis and T cell turnover in adolescents and young adults with perinatal HIV infection with those from age-matched individuals with HIV acquired via recent adult behaviors and seronegative control subjects; (2) to evaluate the impact of viral factors on thymopoiesis of HIV infected adolescents; and (3) to examine the cellular immune responses of perinatally-infected adolescents. The long term aims of the study are to better understand the immunological status and prognosis of long-term survivors of perinatal HIV, and to identify possible therapeutic strategies to promote a normal, healthy lifespan for these individuals. The proposed study would enroll a total of 60 to 90 adolescents and young adults (20–30 subjects in each group) and would involve approximately six clinic visits at six month intervals (four visits for control subjects) over a 30-month period, during which medical histories will be obtained and physical exams, blood drawing and CT exams will be performed. At the second visit (six months following initial enrollment), approximately 5–10 subjects from each group (15 to 30 total) will be asked to participate in a substudy of this research protocol. During this substudy, subjects would be admitted to the General Clinical Research Center (GCRC) and be infused intravenously over a 24-hour period with a deuterium-labeled glucose solution, and would have blood drawn at several intervals thereafter. Under the protocol, if the glucose infusion does not permit adequate labeling of immune cells, subjects would receive 70% deuterium-labeled water orally over 24 hours in the GCRC. Subjects would be sent home with additional aliquots 70% deuterium-labeled water to be consumed 2 to 3 times per week for four weeks, and additional blood drawing would be performed during that period.

In July 2002, UCLA forwarded this protocol to the Secretary of HHS for consideration under 45 CFR 46.407, following the determination by the UCLA IRB that the substudy of the proposed research described above could not be approved under 45 CFR 46.404, 46.405, or 46.406, but was suitable for review under 45 CFR 46.407. The IRB found that the substudy was not designed to provide direct benefit to any of the subjects. The IRB also found that the administration of deuterium-labeled glucose in healthy adolescents did not address a disorder or condition in that specific subject population. The IRB found, however, that the proposed research presented a reasonable opportunity to further the understanding, prevention, or alleviation of a serious problem affecting the health or welfare of children.

Experts in relevant disciplines have reviewed this protocol and each have provided recommendations to the Secretary of HHS. In this **Federal Register** Notice, HHS solicits public review and comment pursuant to the requirements of 45 CFR 46.407. The Secretary of HHS will consider the experts' recommendations and the public comments in making a final determination regarding whether or not HHS should support this research.

In particular, comments are solicited on the following questions: (1) What are the types and degrees of risk that this research presents to the subjects; (2) what are the potential benefits, if any, to the subjects and to children in general; (3) does the research present a reasonable opportunity to further the understanding, prevention, or alleviation of a serious problem affecting the health or welfare of children; (4) if conducted as proposed in the above-cited protocol, would the research be conducted in accordance with sound ethical principles; and (5) have adequate provisions been made for soliciting the assent of children and the permission of their parents or guardians? In formulating a response to question (4), commenters may wish to consider whether the proposed protocol satisfies all the requirements under HHS regulations at 45 CFR 46.111 (criteria for IRB approval of research).

All written comments concerning this matter should be submitted to Ms. Kelley Booher, Division of Policy, Planning, and Special Projects, Office for Human Research Protections, 1101 Wootton Parkway, Suite 200, The Tower Building, Rockville, MD 20852, telephone number (301) 402–5942 (not a toll-free number). Comments also may be sent via facsimile at (301) 402–2071 or by e-mail to: *407panel04@osophs.dhhs.gov.*

Materials to be available for public review on the OHRP Web page (available at: *http://ohrp.osophs.dhhs.gov/panels/407–04pnl/pindex.htm*) will include correspondence from UCLA referring the proposed research protocol to the Secretary of HHS for consideration under 45 CFR 46.407; the original IRB protocol application; correspondence between the UCLA IRB and the principal investigator; relevant excerpts of the NIH grant application, the parental permission and assent documents; and reports from each of experts pursuant to 45 CFR 46.407. A paper copy of the information referenced here is available upon request.

Dated: July 9, 2003.

Arthur J. Lawrence,

Acting Principal Deputy Assistant Secretary for Health.

[FR Doc. 03–17916 Filed 7–15–03; 8:45 am]

BILLING CODE 4150–36–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Immigration and Nationality Act, Delegation of Authority

Notice is hereby given that I have delegated to the Director, Centers for Disease Control and Prevention, with authority to redelegate, the authorities vested in the Secretary of Health and Human Services under section 412(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1522(b)(4)), as amended hereafter.

This delegation shall be exercised under the Department's existing delegation of authority and policy on regulations.

This delegation is effective upon signature. In addition, I hereby affirm and ratify any action taken by the Director, Centers for Disease Control and Prevention or her subordinates which involve the exercise of the authorities delegated herein prior to the effective date of the delegation

Dated: July 3, 2003.

Tommy G. Thompson,

Secretary.

[FR Doc. 03–17918 Filed 7–15–03; 8:45 am]

BILLING CODE 4160–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–03–95]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 498–1210.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: Increasing Cervical Cancer Screening in Never/Rarely Screened, Black Women: Phase I—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Black women in the United States have higher incidence of cervical cancer than White women and higher mortality from cervical cancer than White women. Cancer mortality data from 1974–1994 for Black women show stable, geographic patterns of cervical cancer mortality predominantly in the southeastern part of the United States. While screening rates of Black women are shown to be similar to White women, subgroups of Black women may remain unscreened or under-screened (more than three years since last Pap test), specifically those who are medically uninsured or underinsured or live in rural areas of the country. Screening rates are particularly low for women without access to health care.

The purpose of this project is to conduct formative research to better understand why some Black women ages 40 to 64 do not participate in cervical cancer screening. The proposed study will use focus groups and personal interviews to gather information that will be used to guide future intervention strategies to increase cervical cancer screening in never or rarely screened Black women. There will be no cost to respondents.

Respondents	No. of respondents	No. of responses per respondent	Average burden per responses (in hrs.)	Total burden (in hrs.)
Black women ages 40–64	240	1	90/60	360
Total				360

Dated: July 10, 2003.

Thomas A. Bartenfeld,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 03–17943 Filed 7–15–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–03–96]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 498–1210.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: Final Evaluation of the Effectiveness of Targeted Lookback for Identifying Transfusion Recipients Who Receive Blood That May Have Been Contaminated with Hepatitis C Virus—New—National Center for Infectious Diseases (NCID), Centers for Disease Control and Prevention (CDC).

In 1998 the Food and Drug Administration (FDA) issued guidelines to blood collection establishments and transfusion services for the notification of persons who received blood or blood components from donors who subsequently tested positive for antibody to hepatitis C virus (anti-HCV) using a licensed multiantigen screening assay. Blood collection establishments were to identify potentially HCV-contaminated blood products and inform transfusion services of these units. The transfusion services were then to attempt to notify the recipients of these products and encourage these recipients to be tested for HCV infection. Recently, the FDA revised their original guidance, extending the lookback period for these multiantigen screened donors and including in the lookback process donors who tested anti-HCV positive using an earlier single-antigen screening assay [1].

[1] Food and Drug Administration. Guidance For Industry. ''Lookback'' for Hepatitis C Virus (HCV): Product Quarantine, Consignee Notification,

Continued

CDC, in collaboration with the FDA, has been charged with the responsibility of evaluating this nationwide notification process. An interim nationwide survey (0920–0462) of blood collection establishments and transfusion services was conducted in December 1999 to determine the progress that had been made to date and summarize the lookback results. The objective of this study is to resurvey the blood collection establishments and transfusion services to obtain final results and assess the overall effectiveness of the targeted lookback for identifying persons infected with HCV. The evaluation has two specific aims:

1. Determine the effectiveness of targeted lookback for identifying prior transfusion recipients with HCV infection, including the proportion of recipients identified who are still alive, the proportion of those alive who were successfully notified, the proportion of those notified who have already been tested, the proportion of those notified who get tested as a result of the notification, and the proportion of those tested who are HCV positive.

2. Determine the cost-effectiveness of targeted lookback, including resources (person-hours, costs of recipient notification and testing, etc.) utilized by blood collection establishments and transfusion services for implementation of the lookback protocol.

The evaluation will comprise the following components:

1. A nationwide survey of blood collection establishments.

2. A nationwide survey of transfusion services.

The total cost to respondents is their time to complete the survey.

Respondents	No. of respondents	No. of responses per respondent	Average burden per response (in hrs.)	Total burden (in hrs.)
Blood collection establishment	140	1	5	700
Transfusion services	5,000	1	5	25,000
Total				25,700

Dated: July 10, 2003

Thomas A. Bartenfeld,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 03–17944 Filed 7–15–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Detection of Mutational Frequency in Human Bone Marrow

Neal S. Young *et al.* (NHLBI)

DHHS Reference No. E–320–2002 filed 06 Nov 2002

Licensing Contact: Fatima Sayyid; 301/435–4521; *sayyidf@mail.nih.gov*

To date there have been no adequate methods to determine the frequency of mutations in humans. This invention discloses a method of measuring the mutational frequency of a mitochondrial DNA sequence by sequencing mitochondrial DNA from clonally expanded single cells such as CD34+ human stem cells. Sequencing for mitochondrial DNA polymorphisms and mutations may also be useful as a general method to detect minimal residual disease in leukemia. The mitochondrial genome is particularly susceptible to mutations and these may be used to measure genomic mutagenesis by virtue of comparison. The application of this invention includes the determination of mutational frequency after chemotherapy, radiation, environmental toxic exposure and genetic disease. The invention also provides a screening for an agent that has a mutagenic effect on a cell.

Structurally Rigid Dopamine D3 Receptor Selective Ligands as Cocaine and Methamphetamine Abuse Therapeutics

Amy Newman *et al.* (NIDA)

DHHS Reference No. E–251–2002/0–US–01 filed 14 Sep 2002

Licensing Contact: Norbert Pontzer; 301/435–5502; *np59n@nih.gov*

The dopamine D3 receptor subtype has been implicated in a number of central nervous system (CNS) disorders including but not limited to drug abuse, schizophrenia and Parkinson's disease. Since D3 receptor ligands show efficacy in animal models of cocaine self-administration and Parkinson's disease, there has been a significant effort to design and develop novel dopamine D3 ligands. However most currently known compounds are highly lipophilic, leading to poor bioavailablility and toxicity, or are not highly D3 selective.

The present invention provides a family of structurally rigid, potent and selective D3 receptor antagonists and partial agonists with lowered lipophilicity. Bioavailable compounds that bind with high affinity and selectivity to D3 receptors can not only provide important tools with which to study the structure and function of this receptor subtype, but may also have therapeutic uses in psychiatric, behavioral and neurologic disorders. More information on these potential therapeutic agents was recently published in Newman et al., Bioorganic

Further Testing, Product Disposition, and Notification of Transfusion Recipients Based on Donor Test Results Indicating Infection with HCV Rockville, MD: Center for Biologics Evaluation and Research (CBER), December 2001.

Medicinal Chemistry Letters 13 (2003) 2179–2183.

Oral Treatment of Hemophilia

Oral Alpan *et al.* (NIAID)
DHHS Reference No. E–281–2001/0–PCT–02 filed 02 Aug 2002 (PCT/US02/24544)
Licensing Contact: Fatima Sayyid; 301/435–4521; *sayyidf@mail.nih.gov*

This invention portrays a simple method for treatment of antigen-deficiency diseases by orally administering to a subject a therapeutically effective amount of the deficient antigen, wherein the antigen is not present in a liposome. This method increases hemostasis in a subject having hemophilia A or B, by orally administering to the hemophiliac a therapeutically effective amount of the appropriate clotting factor, sufficient to induce oral tolerance and supply exogenous clotting factor to the subject.

Long-Acting Insulinotropic Peptides and Uses Thereof

Dr. Josephine Egan *et al.* (NIA)
Serial No. 60/309,076 filed 31 Jul 2001; PCT/US02/24141 filed 30 Jul 2002
Licensing Contact: Pradeep Ghosh; 301/435–5282; *ghoshpr@mail.nih.gov*

Type-2 diabetes and neurodegeneration (*e.g.*, Alzheimer's disease, Parkinson's disease, peripheral neuropathy, stroke) are leading causes of death in the United States and worldwide. The present invention pertains to the disclosure of novel peptide analogues of Glucagons-like peptide-1 (GLP–1) and Exendin-4 and their uses in the treatment of (i) diabetes and (ii) neurodegenerative disorders.

(i) Type-2 diabetes is caused by dysfunction of the pancreatic beta cells that may result in concomitant decrease in insulin production. Insulin replacement has been an effective therapy for the treatment of Type-2 diabetes. However, insulin therapy, although life saving, does not restore normal levels of glucose and postprandial levels of glucose continues to be excessively high in individuals on insulin therapy. Further, the therapy may result in adverse effects including hyperglycemia, hypoglycemia, metabolic acidosis and ketosis. Therefore, a better therapeutic formula may be needed that may increase the efficacy of the treatment and minimize the side effects. The present invention discloses a method of treating a subject with diabetes with novel GLP–1/Exendin-4 peptides. These are GLP–1 agonists and elicit insulinotropic actions.

(ii) The GLP–1 receptor is additionally found in the brain as well as associated to pancreatic islets cells. Its stimulation in brain has been found to be neurotrophic and neuroprotective in both tissue culture and *in vivo* against a variety of toxic insults. Peptides of the said invention possess activity in a variety of predictive models of neurodegeneration, and may have potential in a variety of diseases both associated (peripheral neuropathy) and unassociated (Alzheimer's disease, Parkinson's disease, stroke and peripheral neuropathy) with diabetes (J. Alz. Dis. 4: 487–96, 2002; J. Pharmacol. Exp. Ther. 300:958–66, 2002 & 302:881–888, 2002, TIPS in press).

In conclusion, compounds of the present patent application possess potent insulinotrophic, neuroprotective and neurotrophic effects that derive from their GLP–1 agonist action and may have a great market potential as therapeutic agents for the treatment of diabetes and/or neurodegenerative disorders.

Dated: July 10, 2003.

Steven M. Ferguson,

Acting Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health

[FR Doc. 03–18009 Filed 7–15–03; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Development of High-Yield Technologies for Isolating Exfoliated Cells in Body Fluids.

Date: July 30, 2003.

Time: 12 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6116 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Sherwood Githens, PhD, Scientific Review Administrator, Special Review and Logistics Branch, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8068, Bethesda, MD 20892, (301) 435–1822.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: July 10, 2003.

Anna P. Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–18006 Filed 7–15–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, The Agricultural Health Study—Coordinating Center.

Date: July 18, 2003.

Time: 12 p.m. to 3 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6116 Executive Boulevard, Rockville, MD 20851, (Telephone Conference Call).

Contact Person: C. Michael Kerwin, PhD, MPH, Scientific Review Administrator, Special Review and Logistics Branch, Division Of Extramural Activities, National

Cancer Institute, National Cancer Institute, National Institutes Of Health, 6116 Executive Boulevard, Room 8057, MSC 8329, Bethesda, MD 20892–8329, 301–496–7421, *kerwinm@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397. Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: July 10, 2003.

Anna P. Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–18007 Filed 7–15–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Review of Administrative Supplement Applications for Disseminating Evidence-based Intervention Research Products.

Date: August 4, 2003.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate program documents.

Place: National Institutes of Health, 6130 Executive Blvd, Conference Room C, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Cynthia Vinson, MPA, Program Analyst, National Cancer Institute, Division of Cancer Control and Populations Sciences, 6130 Executive Blvd., Room 7046, Bethesda, MD 20892, 301/594–5906.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: July 10, 2003

Anna P. Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–18008 Filed 7–15–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Institutes of Health; National Institute of Environmental Health Sciences; Notice of a Meeting of the Scientific Advisory Committee on Alternative Toxicological Methods

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Scientific Advisory Committee on Alternative Toxicological Methods (SACATM) on August 12–13, 2003, in the Rodbell Auditorium, Rall Building at the National Institute of Environmental Health Sciences, Research Triangle Park, NC. The meeting begins each day at 8:30 a.m.

Agenda

The meeting is being held on August 12–13, 2003 from 8:30 a.m. until adjournment and is open to the public with attendance limited only by the space available. Individuals who plan to attend are asked to register with the NTP Executive Secretary (NTP Liaison and Scientific Review Office, NIEHS, P.O. Box 12233, Research Triangle Park, NC 27709; telephone: 919–541–0530; facsimile: 919–541–0295 or *wolfe.niehs.nih.gov*). The names of those registered will be given to the NIEHS Security Office in order to gain access to the campus. Persons attending who have not pre-registered may be asked to provide pertinent information about the meeting, *i.e.*, title or host of meeting before gaining access to the campus. All visitors (whether or not you are pre-registered) will need to be prepared to show 2 forms of identification (ID, *e.g.*, driver's license, government ID).

Persons needing special assistance, such as sign language interpretation or other reasonable accommodation in order to attend, are asked to notify the NTP Executive Secretary at least seven business days in advance of the meeting (see contact information above). Plans are underway for making this meeting available for viewing on the Internet (*http://www.niehs.nih.gov/external/video.htm*).

A preliminary agenda is provided below. A copy of the agenda, committee roster, and any additional information, when available, will be posted on the NTP Web site (*http://ntp-server.niehs.nih.gov*) or available upon request to the NTP Executive Secretary (contact information provided above). Following the meeting, summary minutes will be prepared and available through the NICEATM/ICCVAM Web site (*http://iccvam.niehs.nih.gov*) and upon request to the NTP Liaison and Scientific Review Office (contact information above).

Preliminary Agenda

Scientific Advisory Committee on Alternative Toxicological Methods August 12–13, 2003

Rodbell Auditorium, Rall Building, National Institute of Environmental Health Sciences (NIEHS), Research Triangle Park, NC 27709

August 12, 2003

8:30 a.m.—Call to Order and Introductions
Welcome from the NIEHS Director
National Toxicology Program Update
Update on Activities of the NTP Center for the Evaluation of Alternative Toxicological Methods and the Interagency Coordinating Committee on the Validation of Alternative Methods
Update on Activities of the European Centre for the Validation of Alternative Methods
U.S. Federal Agency Efforts in Test Method Development and Validation
- Environmental Protection Agency
- National Center for Toxicological Research of the Food and Drug Administration

11:50 a.m.—Lunch Break (on your own)
1 p.m.
- U.S. Department of Agriculture
- National Institutes of Health, Office of the Director
- National Cancer Institute
- National Institute of Environmental Health Sciences and the NTP

Public Comments
5 p.m.—Adjourn

August 13, 2003

8:30 a.m.—Introductions and Call to Order

Application of GLPs to *In Vitro* Test Methods
- ICCVAM/ECVAM Proposal for Development of International Guidance
- ECVAM Guidelines for Good Cell Culture Practices
- Public Comments

Minimum Performance Standards for Test Methods
- MPS for In Vitro Corrosivity Methods
- Public Comments

In Vitro Endocrine Binding and Transcriptional Activation Assays: Minimum Procedural Standards and Reference Chemicals
- Public Comments

12:05 p.m.—Lunch (on your own)

1 p.m.—Overview of ILSI/HESI Work Group's Activities on Identification of Biomarkers of Toxicity and Summary of First Meeting

Validation of Genetically Modified Mouse Models
- Public Comments

2:45 p.m.—Adjourn

Public Comment Welcome

- Public input at this meeting is invited and time is set aside for the presentation of public comments on any agenda topic. Each organization is allowed one time slot per agenda topic. At least 7 minutes will be allotted to each speaker, and if time permits, may be extended to 10 minutes. In order to facilitate planning for this meeting, persons wishing to make an oral presentation are asked to notify the NTP Executive Secretary (contact information above) by August 4, 2003, and to provide their name, affiliation, mailing address, phone, fax, e-mail, and sponsoring organization (if any). Registration for oral comments will also be available on-site, although time allowed for presentation by on-site registrants may be less then that for pre-registered speakers and will be determined by the number of persons who register at the meeting.

Persons registering to make oral comments are asked, if possible, to provide a copy of their statement to the NTP Executive Secretary (contact information above) by August 4, 2003, to enable review by the SACATM and NIEHS/NTP staff prior to the meeting. Written statements can supplement and may expand the oral presentation. If registering on-site and reading from written text, please bring 40 copies of the statement for distribution to the SACATM and NIEHS/NTP staff and to supplement the record. Written comments received in response to this notice will be posted on the NTP Web site (*http://ntp-server.niehs.nih.gov*).

Persons may also submit written comments in lieu of making oral comments. Written comments should be sent to the NTP Executive Secretary and should be received by August 4, 2003, to enable review by the SACATM and NIEHS/NIH prior to the meeting. Persons submitting written comments should include their name, affiliation, mailing address, phone, fax, e-mail, and sponsoring organization (if any) with the document.

Background

The SACATM was chartered January 9, 2002, to fulfill section 3(d) of Public Law 106–545, the ICCVAM Authorization Act of 2000 (42 U.S.C. 285*l*–3(d)] and is composed of scientists from the public and private sectors (**Federal Register:** March 13, 2002: Vol. 67, No. 49, page 11358). The SACATM provides advice to the Director of the National Institute of Environmental Health Sciences (NIEHS), the Interagency Coordinating Committee on the Validation of Alternative Toxicological Methods (ICCVAM), and the National Toxicology Program (NTP) Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM) regarding statutorily mandated duties of the ICCVAM and activities of the NICEATM. The committee's charter is posted on the Web at *http://iccvam.niehs.nih.gov* and is available in hard copy upon request from the NTP Executive Secretary (contact information above).

Dated: July 9, 2003.

Samuel Wilson,

Deputy Director, National Institute of Environmental Health Sciences.

[FR Doc. 03–18012 Filed 7–15–03; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Toxicology Program (NTP); National Institute of Environmental Health Sciences (NIEHS); National Institutes of Health (NIH); NTP Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM) Request for Existing Dermal and Ocular Irritancy Chemical Test Data From Animal and Human Studies Using Standardized Testing Methods

Summary

The Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM) and NICEATM are collaborating with the European Centre for the Validation of Alternative Methods (ECVAM) to conduct a validation study on *in vitro* test methods for assessing dermal irritation. Future collaborative validation studies may evaluate alternative methods for assessing ocular irritancy or other hazard endpoints. On behalf of ICCVAM, the NICEATM requests the submission of existing data on commercially available chemicals tested for skin irritancy in rabbits using current standardized testing methods (*e.g.*, EPA 1998a; EPA 1998b; OECD 2001). These data will be used to help identify appropriate reference chemicals (*i.e.*, those with high-quality *in vivo* testing data) for use in the validation study. NICEATM welcomes the submission of existing data from both human and animal studies and is also interested in any human post-marketing or occupational exposure/surveillance data that might be available for these chemicals. NICEATM also requests the submission of existing, high quality ocular irritation data that might be used to identify appropriate reference chemicals for future validation studies of *in vitro* ocular irritancy test methods. Data are sought from studies conducted to comply with Federal or other national/ international testing requirements that may not be publicly available because, (1) it was submitted to regulatory authorities, but cannot be released to the public by regulatory authorities, or (2) there is no requirement to submit the data to regulatory authorities.

Request for Submission of Chemical and Protocol Information/Test Data

Data and other information submitted in response to this notice should be sent by mail, fax or e-mail to NICEATM [Dr. William S. Stokes, Director, NICEATM, NIEHS, PO Box 12233, MD EC–17, Research Triangle Park, NC, 27709, (phone) 919–541–2384, (fax) 919–541–0947, (e-mail) *iccvam@niehs.nih.gov*] by noon on September 2, 2003 in order to ensure their consideration for the upcoming *in vitro* dermal irritation validation study. However, data and information received after this date will be periodically compiled and added to the database maintained by NICEATM. All chemical and protocol information/ test data submitted in response to this notice will be publicly available upon request to NICEATM.

When submitting chemical and protocol information/test data, please reference this **Federal Register** notice and provide appropriate contact information (name, affiliation, mailing address, phone, fax, e-mail, and sponsoring organization, as applicable).

NICEATM prefers data to be submitted as copies of pages from applicable study notebooks and/or study reports, if available. Each submission for a chemical should preferably include the following information, as appropriate:

- Common and trade name
- Chemical Abstracts Service Registry Number (CASRN)
- Chemical and/or product class
- Commercial source
- Rabbit skin/eye test protocol used
- Human skin/eye test protocol used
- Individual animal/human responses at each observation time
- The extent to which the study complied with National or International Good Laboratory Practice (GLP) guidelines
- Date and testing organization

Those persons submitting data on chemicals tested for skin and/or ocular irritancy in rabbits are referred to the European Centre for Ecotoxicology and Toxicology of Chemicals (ECETOC) Report No. 66: Skin Irritation and Corrosion: Reference Chemicals Data Bank (March 1995) and ECETOC Technical Report No. 48: Eye Irritation: Reference Chemicals Data Bank (Second Edition, June 1998), respectively, for examples of the experimental animal study information and data that are requested in this notice. Both reports may be ordered from the ECETOC Web site at: *http://www.ecetoc.org.* Those persons submitting data on chemicals tested for skin irritation in humans are referred to Phillips, *et al.* (1972) for examples of the types of human study information and data that are requested in this notice.

The NICEATM will compile information and test data received by the deadline for consideration by ICCVAM and the ICCVAM Dermal Corrosivity and Irritancy Working Group (DCIWG). These groups will review the data and identify chemicals that might be appropriate for use in the upcoming validation study on *in vitro* test methods for dermal irritation.

Background Information on ICCVAM and NICEATM

ICCVAM was established in 1997 by NIEHS to coordinate the interagency evaluation of proposed new and alternative test methods, and to coordinate cross-agency issues relating to the validation, acceptance, and national/international harmonization of toxicological testing methods. Composed of representatives from fifteen Federal regulatory and research agencies that use or generate toxicological information, ICCVAM promotes the scientific validation and regulatory acceptance of toxicological test methods that improve agencies' ability to make decisions on health risks, while refining, reducing, and replacing animal use wherever possible. ICCVAM was authorized as a permanent interagency committee of the NIEHS, under the NICEATM, on December 19, 2000, through passage of the ICCVAM Authorization Act of 2000 (Pub. L. 106–545, available at *http://iccvam.niehs.nih.gov/PL106545.htm*). Pub. L. 106–545 directs the ICCVAM to coordinate the technical review of new, revised, and alternative test methods of interagency interest. NICEATM provides operational and scientific support for ICCVAM and ICCVAM-related activities. NICEATM and ICCVAM work collaboratively to evaluate new and improved test methods applicable to the needs of Federal agencies. Additional information about ICCVAM and NICEATM can be found at the following Web site: *http://iccvam.niehs.nih.gov.*

References

EPA. 1998a. Health Effects Test Guidelines, OPPTS 870.2500, Acute Dermal Irritation, EPA 712–C–98–196. Available: *http://www.epa.gov/opptsfrs/OPPTS_Harmonized/870_Health_Effects_Test_Guidelines/Drafts/870–2400.pdf.*

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OECD. 2001. Harmonized Integrated Classification System for Human Health and Environmental Hazards of Chemical Substances and Mixtures [ENV/JM/MONO(2001)6] Available: *http://www.oecd.org.*

Phillips L, Steinberg M, Maibach HI, Akers WA. 1972. A comparison of rabbit and human skin response to certain irritants. Toxicology and Applied Pharmacology. Mar; 21(3): 369–82.

Dated: July 9, 2003.

Samuel Wilson,

Deputy Director, National Institute of Environmental Health Sciences.

[FR Doc. 03–18011 Filed 7–15–03; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Toxicology Program; Announcement of and Request for Public Comments on Substances Nominated to the National Toxicology Program (NTP) for Toxicological Studies and Study Recommendations Made by the NTP Interagency Committee for Chemical Evaluation and Coordination (ICCEC)

Summary: The National Toxicology Program (NTP) continuously solicits and accepts nominations for toxicological studies to be undertaken by the program. Nominations of substances of potential human health concern are received from Federal agencies, the public, and other interested parties. These nominations are subject to several levels of review before selections for testing are made and toxicological studies are designed and implemented. Evaluation by the NTP Interagency Committee for Chemical Evaluation and Coordination (ICCEC) is the initial external review step in the NTP's formal selection process for NTP study nominations. On June 10, 2003, the ICCEC met to review 14 new nominations and make study recommendations. This announcement (1) Provides brief background information regarding the substances nominated to the NTP for study, (2) presents the ICCEC's study recommendations from its June 10, 2003 meeting, (3) solicits public comment on the nominations and study recommendations, and (4) requests the submission of additional relevant information for consideration by the NTP in its continued evaluation of these nominations.

Review of Study Nominations

Evaluation by the ICCEC is the initial external step in the NTP's formal selection process for NTP study nominations. At it's meeting on June 10, 2003, the ICCEC reviewed 14 new nominations for NTP studies. For 13 of these nominations, the ICCEC recommended one or more types of toxicological studies, and for one nomination, no studies were recommended at this time. The nominated substances with CAS numbers, nomination source, nomination rationale, and specific study recommendations are given in the accompanying tables.

The ICCEC is composed of representatives from the Agency for Toxic Substances and Disease Registry,

U.S. Consumer Product Safety Commission, U.S. Department of Defense, U.S. Environmental Protection Agency, U.S. Food and Drug Administration's National Center for Toxicological Research, National Institutes of Health's (NIH) National Cancer Institute, National Center for Environmental Health, NIH's National Institute of Environmental Health Sciences (NIEHS), National Institute for Occupational Safety and Health, NIH's National Library of Medicine, and the Occupational Safety and Health Administration. The ICCEC meets once or twice annually to evaluate groups of new study nominations and to make recommendations with respect to both specific types of studies and testing priorities.

Request for Public Comment

Interested parties are invited to submit written comments or supplementary information on the nominated substances and study recommendations that appear in the accompanying tables. The NTP welcomes toxicology and carcinogenesis study information from completed, ongoing, or anticipated studies, as well as information on current U.S. production levels, use or consumption patterns, human exposure, environmental occurrence, or public health concerns for any of the nominated substances. The NTP is also interested in identifying appropriate new animal and non-animal models for mechanistic based research, including genetically modified rodents, and as such, solicits comments regarding the use of specific *in vivo* and *in vitro* experimental models to address scientific questions relevant to the nominated substances or issues under consideration. All information received will be considered by the NTP in its continued review of these nominations. Comments or information should be sent to Dr. Scott Masten (contact information below) by September 15, 2003. Persons responding to this request should include their name, affiliation, mailing address, phone, fax, e-mail address and sponsoring organization (if any) with the submission. Written submissions will be made available electronically on the NTP Web site as they are received.

An electronic copy of this announcement, Internet links to electronic versions of supporting documents for each nomination, and further information on the NTP and the NTP Chemical Nomination and Selection Process can be accessed through the NTP Web site: *http://ntp-server.niehs.nih.gov.*

Send comments or information to Dr. Scott A. Masten, Office of Chemical Nomination and Selection, NIEHS/NTP, PO Box 12233, MD A3–07, Research Triangle Park, North Carolina 27709; telephone: (919) 541–5710; Fax: (919) 541–3647; e-mail: *masten@niehs.nih.gov.*

Background

The NTP actively seeks to identify and select for study chemicals and other agents for which sufficient information is not available to adequately evaluate potential human health hazards. The NTP accomplishes this goal through a formal open nomination and selection process. Substances considered appropriate for study generally fall into two broad yet overlapping categories: (1) Substances judged to have high concern as a possible public health hazard based on the extent of human exposure and/or suspicion of toxicity and (2) substances for which toxicological data gaps exist and additional studies would aid in assessing potential human health risks, *e.g.* by facilitating cross-species extrapolation or evaluating dose-response relationships. Input is also solicited regarding the nomination of studies that permit the testing of hypotheses to enhance the predictive ability of future NTP studies, address mechanisms of toxicity, or fill significant gaps in the knowledge of the toxicity of classes of chemical, biological, or physical substances. Substances may be studied to evaluate a variety of health-related effects, including but not limited to reproductive and developmental toxicity, genotoxicity, immunotoxicity, neurotoxicity, metabolism and disposition, and carcinogenicity. In reviewing and selecting nominated substances, the NTP also considers legislative mandates that require responsible private sector commercial organizations to evaluate their products for health and environmental effects. The possible human health consequences of anticipated or known human exposure, however, remain the over-riding factor in the NTP's decision to study a particular substance.

The review and selection of substances nominated for study is a multi-step process. A broad range of concerns are addressed during this process through the participation of representatives from the NIEHS, other Federal agencies, the NTP Board of Scientific Counselors—an external scientific advisory body, the NTP Executive Committee—the NTP Federal interagency policy body, and the public. This process is described in further detail in a March 2, 2000 **Federal Register** announcement (Volume 65, Number 42, pages 11329–11331). This multi-step evaluative process provides the NTP with direction and guidance to ensure that it's testing program addresses toxicological concerns relative to all areas of public health, and furthermore, that there is balance among the types of substances selected for study (*e.g.*, industrial chemicals, consumer products, therapeutic agents). As such, it should be recognized that at any given time, the new study nominations under consideration do not necessarily reflect the overall balance of substances historically or currently being evaluated by the NTP in it's toxicology testing program. For further information on NTP toxicology studies (previous or in progress) visit the NTP Web site at *http://ntp-server.niehs.nih.gov.*

Dated: July 7, 2003.

Samuel Wilson,

Deputy Director, National Institute of Environmental Health Sciences.

Substances Nominated to the NTP for Toxicological Studies and Recommendations Made by the ICCEC on June 10, 2003

TABLE 1.—SUBSTANCES RECOMMENDED FOR STUDY

Substance [CAS No.]	Nominated by	Nomination rationale	Recommendations for toxicological studies
Acrylamide [79–06–1] and Glycidamide [5694–00–8].	U.S. Food and Drug Administration.	Inadequate information available to accurately assess human health risks from exposure to acrylamide in foodstuffs; a properly designed well-conducted, GLP-compliant bioassay with appropriate ancillary studies is needed to provide dose-response information and account for the food matrix through which humans are exposed.	—Toxicological characterization. —Toxicokinetics. —Mechanistic (hemoglobin adducts). —Carcinogenicity. —Bioavailability from food and drinking water.
Antimony trisulfide [1345–04–6]	National Cancer Institute.	Significant human exposure in occupational settings and suspicion of carcinogenicity.	Chronic toxicity/carcinogenicity.
Cadmium telluride [1306–25–8]	U.S. Department of Energy, Brookhaven National Laboratory, National Renewable Energy Laboratory, First Solar, Inc.	Potential for widespread applications in photovoltaic energy generation; anticipated increase in human exposures; further data needed to address health and safety issues related to manufacture and use.	—Toxicological characterization. —Chemical disposition (oral and inhalation routes).
Cedarwood oil, Virginia [8000–27–9].	National Cancer Institute	Widespread occupational and consumer exposure; lack of basic toxicology data.	—Toxicological characterization. —Developmental toxicity.
Chondroitin sulfate [9007–28–7]	National Cancer Institute	Widespread long-term use as a dietary supplement and inadequate data to assess safety.	—Chronic toxicity/carcinogenicity. —Carcinogenicity of chondroitin sulfate and glucosamine combined.
Dimethylethanolamine [108–01–0]	National Institute of Environmental Health Sciences.	Potential for widespread human exposure through its use in industrial and consumer products; inadequate toxicological database; some ethanolamines can interfere with choline uptake and utilization and may also generate nitrosamines.	—Metabolism.
Drugs positive for QT Interval Prolongation/Induction of *Torsade* Proarrhythmia [No CAS No.].	U.S. Food and Drug Administration.	QT interval prolongation and *torsade de pointes* is a high priority cause for concern in drug development and regulatory safety evaluation; a clear definition of the strengths, limitations, and future performance characteristics of the canine telemetry model for pre-clinical safety assessment is needed.	—Initiate a study program to develop *in vitro* and *in vivo* test systems for assessing QT interval prolongation.
Glucosamine [3416–24–8]	National Cancer Institute	Widespread long-term use as a dietary supplement and inadequate data to assess safety.	—Chronic toxicity/carcinogenicity. —Carcinogenicity of chondroitin sulfate and glucosamine combined.
Nanoscale materials. [No CAS No.].	Rice University Center for Biological and Environmental Nanotechnology.	Intense current and anticipated future research and development focus; further studies and development of appropriate toxicological methods are needed to adequately assess health effects.	—Size—and composition—dependent biological disposition of nanocrystalline fluorescent semiconductor materials. —Toxicological characterization of high aspect ratio carbon nanomaterials. —Role of particle core and surface composition in the immunotoxicity of the above listed materials. —Phototoxicity of representative metal oxide nanoparticles.

TABLE 1.—SUBSTANCES RECOMMENDED FOR STUDY—Continued

Substance [CAS No.]	Nominated by	Nomination rationale	Recommendations for toxicological studies
trans—Resveratrol [501–36–0]	National Institute of Environmental Health Sciences.	Widespread human exposure from natural dietary sources and use of dietary supplements; suspicion of toxicity based on estrogenic and genotoxic activity; insufficient data available to characterize safety.	—Toxicological characterization. —Carcinogenicity. —Reproductive toxicity.
Tetrabromobisphenol A [79–94–7]	National Institute of Environmental Health Sciences.	High production volume; widespread human exposure and suspicion of thyroid toxicity/tumorigenicity.	—Toxicological characterization. —Neurodevelopmental toxicity. —Carcinogencity.
Tetrabromobisphenol A bis(2,3-dibromopropyl ether) [21850–44–2].	National Institute of Environmental Health Sciences.	High production volume; little toxicity data available; suspicion of carcinogenic potential due to 2,3-dibromo-1-propanol substructure.	—Toxicological characterization. —*In vivo* genotoxicity. —Metabolism. —Carcinogenicity.
Tungsten [7440–33–7]	National Center for Environmental Health.	Important industrial materials; insufficient data to assess human health implications of elevated urinary tungsten levels.	—Toxicological characterization. —Carcinogenicity. —Studies should focus on a representative soluble tungsten compound.

TABLE 2.—SUBSTANCE FOR WHICH NO STUDY IS RECOMMENDED AT THIS TIME

Substance [CAS No.]	Nominated by	Nominated for	Nomination rationale	Rationale for recommending no toxicological studies
4-Phenylcyclohexene [4994–16–5].	Private Individuals	—Toxicological characterization including genotoxicity and neurotoxicity.	Present in indoor environments primarily from carpet emissions; concern that it has not been adequately tested for potential health effects.	Low suspicion of hazard based on available human exposure and toxicity information.

[FR Doc. 03–18010 Filed 7–15–03; 8:45 am]
BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Citizenship and Immigration Services

[CIS No. 2279–03]

RIN 1615–AA04

Extension of the Designation of El Salvador Under Temporary Protected Status Program; Automatic Extension of Employment Authorization Documentation for El Salvador

AGENCY: Bureau of Citizenship and Immigration Services, Homeland Security.

ACTION: Notice.

SUMMARY: The designation of El Salvador under the Temporary Protected Status (TPS) Program will expire on September 9, 2003. This notice extends the Secretary of Homeland Security's designation of El Salvador for 18 months until March 9, 2005, and sets forth procedures necessary for nationals of El Salvador (or aliens having no nationality who last habitually resided in El Salvador) with TPS to re-register and to apply for an extension of their employment authorization documentation for the additional 18-month period. Re-registration is limited to persons who registered under the initial designation (which ended on September 9, 2002) and also timely re-registered under the extensions of designation. Certain nationals of El Salvador (or aliens having no nationality who last habitually resided in El Salvador) who previously have not applied for TPS may be eligible to apply under the late initial registration provisions.

Given the large number of Salvadorans affected by this notice, the Department of Homeland Security (DHS) recognizes that many re-registrants will not receive their new Employment Authorization Documents (EADs) until after their current EADs expire on September 9, 2003. Accordingly, this notice automatically extends, until March 9, 2004, the validity of EADs issued pursuant to the El Salvador TPS program, and explains how TPS beneficiaries or their employers may determine which EADs are automatically extended.

EFFECTIVE DATES: The extension of El Salvador's TPS designation is effective September 9, 2003, and will remain in effect until March 9, 2005. The 60-day re-registration period begins July 16, 2003 and will remain in effect until September 15, 2003.

FOR FURTHER INFORMATION CONTACT: Jonathan Mills, Department of Homeland Security, Bureau of Citizenship and Immigration Services, 425 ''I'' Street, NW., Room 3040, Washington, DC 20536, telephone (202) 514–4754.

SUPPLEMENTARY INFORMATION:

What Authority Does the Secretary of the Homeland Security Have To Extend the Designation of El Salvador Under the TPS Program?

On March 1, 2003, the functions of the Immigration and Naturalization Service (Service) transferred from the Department of Justice to the Department of Homeland Security (DHS) pursuant to the Homeland Security Act of 2002,

Public Law 107–296. The responsibilities for administering the TPS program held by the Service were transferred to the Bureau of Citizenship and Immigration Services (BCIS) of the DHS.

Under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. 1254a, the Secretary of DHS, after consultation with appropriate agencies of the Government, is authorized to designate a foreign state or (part thereof) for TPS. The Secretary of DHS may then grant TPS to eligible nationals of that foreign state (or aliens having no nationality who last habitually resided in that state).

Section 244(b)(3)(A) of the Act requires the Secretary of DHS to review, at least 60 days before the end of the TPS designation or any extension thereof, the conditions in a foreign state designated under the TPS program to determine whether the conditions for a TPS designation continue to be met and, if so, the length of an extension of TPS. (8 U.S.C. 1254a(b)(3)(A)). If the Secretary of DHS determines that the foreign state no longer meets the conditions for TPS designation, he shall terminate the designation, as provided in section 244(b)(3)(B) of the Act (8 U.S.C. 1254a(b)(3)(B)). Finally, if the Secretary of DHS does not make the required determination prior to the 60-day period prescribed by statute, section 244(b)(3)(C) of the Act provides for an automatic extension of TPS for an additional period of 6 months (or, in the discretion of the Secretary of DHS, a period of 12 or 18 months) (8 U.S.C. 1254a(b)(3)(C)).

Why Did the Attorney General Designate El Salvador for TPS?

On March 9, 2001, the Attorney General initially designated El Salvador under the TPS program for a period of 18 months based upon a series of severe earthquakes that caused numerous fatalities and injuries and left 1.6 million people (over one-quarter of the country's population) without adequate housing. 66 FR 14214. Following the initial designation, the Departments of Justice (DOJ) and State (DOS) kept a close watch over the progress of reconstruction in El Salvador. Given the amount of reconstruction necessary, the Attorney General extended the El Salvador TPS designation on July 11, 2002 (67 FR 46000).

Why Is the Secretary of DHS Extending the TPS Designation for El Salvador?

After the extension of El Salvador's TPS designation on July 11, 2002, DHS and DOS have continued to monitor the conditions in that country. Prior to making his decision to extend the El Salvador TPS designation, the Secretary of DHS consulted with relevant government agencies to determine whether conditions warranting the TPS designation continue to exist in El Salvador.

Although El Salvador has made progress in its post-earthquake reconstruction effort, much work remains. (DOS Recommendation (April 13, 2003)). As of April 2003, only one-third of the 170,000 homes destroyed by the earthquakes had been replaced. *Id.* More than three-quarters of the damaged roads still need repair. *Id.* As of February 2003, some rural health clinics have been rebuilt, but construction had not begun on other major health facilities. (BCIS Resource Information Center (RIC) (May 7, 2003)). The RIC reports that, in February 2003, the majority of damaged or destroyed schools targeted for reconstruction by USAID were still in the design phase. *Id.*

The economy of El Salvador is not yet stable enough to absorb returnees from the United States should TPS not be extended. (DOS Recommendation). Returning Salvadorans would tax an already overburdened infrastructure that is currently incapable of providing for them at home. *Id.* A large number of returnees from the United States would not be able to find jobs or possibly housing, creating social unrest and exacerbating a critical crime situation and already dismal living conditions. *Id.* An extension will allow the approximately 290,000 Salvadorans now with TPS to remain in the U.S. and continue sending home remittances, which have proven helpful in the recovery process. *Id.*

Based upon this review, the Secretary of DHS finds that the conditions that prompted designation of El Salvador under the TPS program continue to be met (8 U.S.C. 1254a(b)(3)(C)). There continues to be a substantial, but temporary, disruption of living conditions in El Salvador as a result of environmental disaster, and El Salvador continues to be unable, temporarily, to handle adequately the return of its nationals (8 U.S.C. 1254a(b)(1)(B)(i)–(ii)). On the basis of these findings, the Secretary of DHS concludes that the TPS designation for El Salvador should be extended for an additional 18-month period.

If I Currently Have TPS Through the El Salvador TPS Program, Do I Still Re-register for TPS?

Yes. If you already have received TPS benefits through the El Salvador TPS program, your benefits will expire on September 9, 2003. Accordingly, individual TPS beneficiaries must comply with the re-registration requirements described below in order to maintain their TPS benefits through March 9, 2005. TPS benefits include temporary protection against removal from the United States, as well as work authorization, during the TPS designation period and any extension thereof (8 U.S.C. 1254a(a)(1)).

If I Am Currently Registered for TPS, How Do I Re-register for an Extension?

All persons previously granted TPS under the El Salvador program who wish to maintain such status must apply for an extension by filing (1) a Form I–821, Application for Temporary Protected Status, without the filing fee; (2) a Form I–765, Application for Employment Authorization; and (3) two identification photographs (1½ inches x 1½ inches). Applications submitted without the required fee and/or photos will be returned to the applicant. See the chart below to determine whether you must submit the one hundred and twenty dollar ($120) filing fee with Form I–765. Applicants for an extension of TPS benefits do not need to be re-fingerprinted and thus need not pay the $50 fingerprint fee. Children beneficiaries of TPS who have reached the age of fourteen (14) but were not previously fingerprinted must pay the fifty dollar ($50) fingerprint fee with the application for extension.

Submit the completed forms and applicable fee, if any, to the BCIS Service Center having jurisdiction over your place of residence during the 60-day re-registration period that begins July 16, 2003 and ends September 15, 2003.

If—	Then—
You are applying authorization until March 9, 2005	You must complete and file the Form I–765, Application for employment for Employment Authorization, with the $120 fee.
You already have employment authorization or do not require employment authorization.	You must complete and file Form I–765 with no fee.[1]

If—	Then—
You are applying for emmployment authorization and are requesting a fee waiver.	You must complete and file: (1) Form I–765 and (2) a fee waiver request and affidavit (and any other information) in accordance with 8 CFR 244.20.

[1] An applicant who does not seek employment authorization documentation does not need to submit the $120 fee, but must still complete and submit Form I–765 for data gathering purposes

If My Application for TPS is Still Pending, How Can I Renew My Employment Authorization Document?

If your application for TPS is still pending and you wish to receive or renew your employment authorization document, you must file with the BCIS Service Center having jurisdiction over your place of residence (1) a Form I–821 without the filing fee, (2) a Form I–765 Application for Employment Authorization, and (3) two identification photographs (1½ inches x 1½ inches). Applications submitted without the filing fee or photos will be returned to the applicant. See the chart above to determine whether you must submit the one hundred and twenty ($120) filing fee with Form I–765.

How Does an Application for TPS Affect My Application for Asylum or Other Immigration Benefits?

An application for TPS does not affect an application for asylum or any other immigration benefit, and vice versa. Denial of an application for asylum or any other immigration benefit does not affect an applicant's TPS eligibility, although the grounds for denying one form of relief may also be grounds for denying TPS. For example, a person who has been convicted of a particularly serious crime is not eligible for asylum or TPS (8 U.S.C. 1158(b)(2)(A)(ii); 8 U.S.C. 1254a(c)(2)(B)(ii)).

Does This Extension Allow Nationals of El Salvador (or Aliens Having No Nationality Who Last Habitually Resided in El Salvador) Who Entered the United States After February 13, 2001, to File for TPS?

No. This is a notice of an extension of TPS, not a notice of re-designation of El Salvador under the TPS program. An extension of TPS does not change the required dates of continuous residence and continuous physical presence in the United States. This extension does not expand TPS availability to those who are not already TPS class members. To be eligible for benefits under this extension, nationals of El Salvador (or aliens having no nationality who last habitually resided in El Salvador) must have resided continuously in the United States since February 13, 2001, and have been continuously physically present in the United States since March 9, 2001.

Who Is Eligible for Late Initial Registration?

Some persons may be eligible for late initial registration under 8 CFR 244.2(f)(2). To apply for late initial registration an applicant must:

(1) Be a national of El Salvador (or alien who has no nationality and who last habitually resided in El Salvador);

(2) Have been continuously physically present in the United States since March 9, 2001;

(3) Have continuously resided in the United States since February 13, 2001; and

(4) Be both admissible as an immigrant, except as provided under section 244(c)(2)(A) of the Act, and not ineligible under section 244(c)(2)(B) of the Act.

Additionally, the applicant must be able to demonstrate that during the registration period from March 9, 2001, through September 9, 2002, he or she:

(1) Was a nonimmigrant or had been granted voluntary departure status or any relief from removal;

(2) Had an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal or change of status pending or subject to further review or appeal;

(3) Was a parolee or had a pending request for reparole; or

(4) Was the spouse or child of an alien currently eligible to be a TPS registrant.

An applicant for late initial registration must file an application for late registration no later than 60 days after the expiration or termination of the conditions previously described above (8 CFR 244.2(g)).

Why Is the Secretary of DHS Automatically Extending the Validity of EADs From September 9, 2003, to March 9, 2004?

The Secretary of DHS has decided to extend automatically the validity of EADs to prevent a lapse in employment authorization documentation for qualified re-registrants during the time that re-registration applications are processed. Given the large number of El Salvador TPS class members who are eligible for re-registration, re-registrants may receive their new EADs only after their current EADs have expired. To prevent a gap in employment authorization documentation for qualified re-registrants, the Secretary of DHS is extending automatically the validity of the applicable EADs for a period of 6 months, to March 9, 2004 (8 U.S.C. 1254a(a)(2); 1254a(d)(1)–(2)).

Who Is Eligible To Receive an Automatic Extension of His or Her EAD?

To receive an automatic extension of his or her EAD, an individual must be a national of El Salvador (or an alien having no nationality who last habitually resided in El Salvador) who has applied for and received an EAD under the initial TPS designation for El Salvador. This automatic extension is limited to EADs issued on either Form I–766 or Form I–688B bearing an expiration date of September 9, 2003. The EAD must also be either (1) a Form I–766 bearing the notation ''A–12'' or ''C–19'' on the face of the card under ''Category'; or (2) a Form I–688B bearing the notation ''274A.12(A)(12)'' or ''274A.12(C)(19)'' on the face of the card under ''Provision of Law'.

Must Qualified Individuals Apply for the Automatic Extension of Their TPS-Related EADs Until March 9, 2004?

No, qualified individuals do not have to apply for this automatic employment authorization extension to March 9, 2004. However, qualified individuals must re-register for TPS during the re-registration period that begins on July 16, 2003, and continues through September 15, 2003, in order to be eligible for a new EAD that is valid until March 9, 2005.

What Documents May a Qualified Individual Show to His or Her Employer as Proof of Employment Authorization and Identity When Completing the Employment Eligibility Verification Form (Form I–9)?

For completion of the Form I–9 at the time of hire or re-verification, qualified individuals who have received an extension of employment authorization by virtue of this **Federal Register** notice may present to their employer a TPS-related EAD as proof of identity and employment authorization until March 9, 2004. To minimize confusion over this extension at the time of hire or re-verification, qualified individuals may also present to their employer a copy of

this **Federal Register** notice regarding the automatic extension of employment authorization documentation to March 9, 2004. In the alternative, any legally acceptable document or combination of documents listed in List A, List B, or List C of the Form I–9 may be presented as proof of identity and employment eligibility; it is the choice of the employee.

How May Employers Determine Whether an EAD Has Been Automatically Extended Through March 9, 2004 and Is Therefore Acceptable for Completion of the Form I–9?

For purposes of verifying identity and employment eligibility or re-verifying employment eligibility on the Form I–9 until March 9, 2004, employers of El Salvador TPS class members whose employment authorization has been automatically extended by this notice must accept an EAD that contains an expiration date of September 9, 2003, To be eligible for the automatic extension, the EAD must be either (1) a Form I–766 bearing the notation ''A–12'' or ''C–19'' on the face of the card under ''Category'', or (2) a Form I–688B bearing the notation ''274A.12(A)(12)'' or ''274A.12(C)(19)'' on the face of the card under ''Provision of Law''. New EADs or extension stickers showing the March 9, 2004 expiration date will not be issued.

Employers should not request proof of Salvadoran citizenship. Employers presented with an EAD that this **Federal Register** notice has extended automatically, that appears to be genuine and that relates to the employee should accept the document as a valid ''List A'' document and should not ask for additional Form I–9 documentation. This action by the Secretary of the DHS through this **Federal Register** notice does not affect the right of an employee to present any legally acceptable document as proof of identity and eligibility for employment.

Employers are reminded that the laws prohibiting unfair immigration-related employment practices remain in full force. For questions, employers may call the BCIS' Office of Business Liaison Employer Hotline at 1–800–357–2099 to speak to a BCIS representative. Also, employers may call the U.S. Department of Justice Office of Special Counsel for Immigration Related Unfair Employment Practices (OSC) Employer Hotline at 1–800–255–8155, or 1–800–362–2735 (TDD). Employees or applicants may call the OSC Employee Hotline at 1–800–255–7688, or 1–800–237–2515 (TDD) for information regarding the automatic extension. Additional information is available on the OSC Web site at *http://www.usdoj.gov/crt/osc/index.html.*

What Happens When This Extension of TPS Expires on March 9, 2005?

At least 60 days before this extension of TPS expires on March 9, 2005, the Secretary of DHS will review conditions in El Salvador and determine whether the conditions for designation under the TPS program continue to be met at that time, or whether the TPS designation should be terminated. Notice of that determination, including the basis for the determination, will be published in the **Federal Register**.

If the TPS designation is extended at that time, an alien who has received TPS benefits must re-register under the extension in order to maintain TPS benefits. If, however, the Secretary of DHS terminates the TPS designation, TPS beneficiaries will maintain the immigration status they had before TPS (unless that status had since expired or been terminated) or any other status they may have acquired while registered for TPS. Accordingly, if an alien had no lawful immigration status prior to receiving TPS and did not obtain any status during the TPS period, he or she will revert to that unlawful status upon termination of the TPS designation.

Notice of Extension of Designation of El Salvador Under the TPS Program

By the authority vested in me as Secretary of DHS under sections 244(b)(1)(B), (b)(3)(A), and (b)(3)(C) of the Act, I have consulted with the appropriate government agencies and determine that the conditions that prompted designation of El Salvador for TPS continue to be met (8 U.S.C. 1254a(b)(3)(A)). Accordingly, I order as follows:

(1) The designation of El Salvador under section 244(b) of the Act is extended for an additional 18-month period from September 9, 2003, to March 9, 2005 (8 U.S.C. 1254a(b)(3)(C)).

(2) There are approximately 290,000 nationals of El Salvador (or aliens having no nationality who last habitually resided in El Salvador) who have been granted TPS and who are eligible for re-registration.

(3) To maintain TPS, a national of El Salvador (or an alien having no nationality who last habitually resided in El Salvador) who received TPS during the initial designation period must re-register for TPS during the 60-day re-registration period from July 16, 2003 until September 15, 2003.

(4) To re-register, the applicant must file the following: (1) Form I–821, Application for Temporary Protected Status; (2) Form I–765, Application for Employment Authorization; and (3) two identification photographs (1½ inches by 1½ inches). Applications submitted without the required fee and/or photos will be returned to the applicant. There is no fee for filing a Form I–821 as part of the re-registration application. If the applicant requests employment authorization, he or she must submit one hundred and twenty dollars ($120) or a properly documented fee waiver request, pursuant to 8 CFR 244.20, with the Form I–765. An applicant who does not request employment authorization must nonetheless file Form I–765 along with Form I–821, but is not required to submit the fee. The fifty-dollar ($50) fingerprint fee is required only for children beneficiaries of TPS who have reached the age of 14 but were not previously fingerprinted. Failure to re-register without good cause will result in the withdrawal of TPS (8 CFR 244.17(c)). Some persons who had not previously applied for TPS may be eligible for late initial registration under 8 CFR 244.2.

(5) At least 60 days before this extension terminates on March 9, 2005, the Secretary of DHS will review the designation of El Salvador under the TPS program and determine whether the conditions for designation continue to be met (8 U.S.C. 1254a(b)(3)(A)). Notice of that determination, including the basis for the determination, will be published in the **Federal Register** (8 U.S.C. 1254a(b)(3)(A)).

(6) TPS-related Employment Authorization Documents that expire on September 9, 2003, are extended automatically until March 9, 2004, for qualified Salvadorans.

(7) Information concerning the extension of designation of El Salvador under the TPS program will be available at local BCIS offices upon publication of this notice and on the BCIS Web site at *http://www.bcis.gov/graphics/index.htm.*

Dated: July 9, 2003.

Tom Ridge,

Secretary of Homeland Security.

[FR Doc. 03–17872 Filed 7–15–03; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2003–15648]

Towing Safety Advisory Committee; Charter Renewal

AGENCY: Coast Guard, DHS.

ACTION: Notice of charter renewal.

SUMMARY: The Secretary of Homeland Security has renewed the charter for the Towing Safety Advisory Committee (TSAC) for 2 years from July 1, 2003 until June 30, 2005. TSAC is a Federal advisory committee under 5 U.S.C. App.2 (Pub. L. 92–463, 86 Stat. 770, as amended). It advises the Secretary through the Coast Guard on matters relating to shallow-draft inland and coastal waterway navigation and towing safety.

ADDRESSES: You may request a copy of the charter by writing to Commandant (G–MSO–1), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001; by calling 202–267–0214; or by faxing 202–267–4570. This notice and the charter are available on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Gerald Miante, Assistant Executive Director of TSAC, telephone 202–267–0221, fax 202–267–4570, or e-mail *gmiante@comdt.uscg.mil.*

Dated: July 11, 2003.

Joseph J. Angelo,

Director of Standards, Marine Safety, Security & Environmental Protection.

[FR Doc. 03–17987 Filed 7–15–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. 4817–N–09]

Notice of Proposed Information Collection for Family Report, MTW Family Report, and Reporting Discrepancy in Tenant-Reported Cross Income for Public Comments

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirements described below will be submitted to the Office of Management and Budget (OMB) for review and approval, as required by the Paperwork Reduction Act. As a preliminary step, the Department, by this publication in the **Federal Register**, is soliciting public comments on the subject proposals.

DATES: Comments Due Date: September 15, 2003.

ADDRESSES: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposals by name and/or OMB Control number and should be sent to: Mildred M. Hamman, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 4249, Washington, DC 20410–5000.

FOR FURTHER INFORMATION CONTACT: Mildred M. Hamman, (202) 708–0614, extension 4128, for copies of the proposed forms and other available documents. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: At the end of the comment period, the Department will submit the proposed information collection notice to the Office of Management and Budget for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This notice will address three related proposals to improve Public and Indian Housing (PIH) tenant data collection and verification: (1) Approval of the revised Form, HUD–50058, (2) approval to extend the Form HUD–50058 MTW (6/2001), and (3) authorization to collect 3 data elements pertaining to verified benefit payments from the Social Security Administration and 6 data elements pertaining to verified wage and unemployment insurance payments. When integrated, these three collection tools will allow HUD to gather more complete and accurate tenant information with which to monitor program performance.

Background

(1) Form HUD–50058

The Department of Housing and Urban Development (HUD) intends to revise Form HUD–50058 in a manner that will require changes to the HUD Form, HUD–50058 Module in the Public and Indian Housing Information Center (PIC), but will not require changes in software systems of public housing agencies or vendors supporting public housing agencies. HUD will maintain the current information collection burden until the changes in HUD's PIC system have been completed. Therefore, HUD seeks comments on the proposed revisions to the Form HUD–50058 and on the proposal to extend the existing Form HUD–50058 (6/2001) until the revisions are fully implemented.

The Form HUD–50058 collects demographic and income data on residents participating in PIH's Public Housing, Section 8 Housing Choice Voucher, Section 8 Project Based Certificates, and Section 8 Moderate Rehabilitation programs. Public housing agencies will transmit the form electronically to HUD at least annually for each household.

The Department updated the currently approved Form HUD–50058 by removing obsolete and unnecessary data fields. These deletions will not require vendors to modify their software for reporting family data to the Public and Indian Housing Information Center (PIC)—the information system that collects electronic Form HUD–50058 data. Public housing agencies should not modify their software to reflect the deletions, but they are no longer required to send data in the fields that HUD has deleted. If public housing agencies submit data for the deleted fields using the file structure of the current form (Form HUD–50058 (6/2001)), the PIC system will ignore the data.

HUD conducted a two-day industry consultation session with public housing agencies (PHA), trade organizations, vendors, and other interested parties in November 2002 to collect suggestions to improve the Form HUD–50058 and the reporting rate by public housing agencies to the Form 50058 Module in the Public and Indian Housing Information Center. The Department reviewed all of the suggestions gathered at the consultation session and incorporated them where possible into the revised Form HUD–50058, resulting in modest changes to the form, none of which require changes to vendor software. HUD continues to work collaboratively with the user community to produce an improved Form HUD–50058 that meets the needs of HUD, public housing agencies, and other users.

(2) Form HUD–50058 MTW

HUD seeks comments on the proposal to extend the existing Form HUD–50058 MTW (6/2001). The Form HUD–50058 MTW collects demographic and income data on residents participating in PIH's Public Housing, Section 8 Housing Choice Voucher, Section 8 Project Based Certificates, and Section 8 Moderate Rehabilitation programs and whose public housing agencies participate in the Moving-to-Work (MTW) program. MTW–PHA (*i.e.,* public housing agencies participating in the Moving-to-Work demonstration program) will transmit the form electronically to HUD at least annually for each household.

Form HUD–50058 MTW addresses the particular reporting requirements and constraints for public housing agencies that participate in the Moving-to-Work (MTW) demonstration program mandated by Section 206 of the 1996 HUD Appropriations Act. This information collection effort supports MTW program monitoring and evaluation, as required by Congress.

MTW–PHA will use the Form HUD–50058 MTW to collect data on MTW-families only. MTW-families include families who participate in any component of the MTW program. This includes families who receive self-sufficiency support services but pay rent under conventional program rules. Non-MTW-families include families who reside in a MTW–PHA but do not participate in any component of the MTW program. MTW–PHA will continue to use the regular Form HUD–50058 for Non-MTW families.

Public housing agencies that currently participate in the MTW demonstration program are:

- Cambridge Housing Authority
- Chicago Housing Authority
- Delaware State Housing Authority
- Greene Metropolitan Housing Authority
- Housing Authority of the City of High Point
- Keene Housing Authority
- Lawrence-Douglas Housing Authority
- Lincoln Housing Authority
- Housing Authority of Louisville
- Massachusetts Department of Housing and Community Development
- Minneapolis Public Housing Authority
- Housing Authority of the City of New Haven
- Philadelphia Housing Authority
- Housing Authority of the City of Pittsburgh
- Portage Metropolitan Housing Authority
- Housing Authority of Portland
- San Antonio Housing Authority
- San Diego Housing Commission
- Housing Authority of the County of San Mateo
- Seattle Housing Authority
- Housing Authority of the County of Tulare
- Housing Authority of the City of Vancouver

Additional public housing agencies may join the MTW program.

(3) Systems to Monitor Reductions in Subsidy Payment Errors

In response to a Presidential Management Initiative, HUD has established the Annual Performance Plan goal to reduce subsidy payment errors by 15% in 2003, 30% by 2004, and 50% by 2005. In support of this goal, the Real Estate Assessment Center (REAC) implemented an income verification component in the Tenant Assessment Sub-System (TASS), which assists public housing agencies (PHA) in the detection and prevention of program abuses. TASS performs this function by providing over the Internet the ability for public housing agencies to verify income from Social Security (SS) and Supplemental Security Income (SSI) reported on the Form HUD–50058.

Program Administrators of HUD's rental assistance programs need SS and SSI information to determine the amount of rental assistance that tenants are entitled to received. Currently, TASS uses an automated matching process to compare tenants' SS and SSI benefits from the Social Security Administration's (SSA) database to SS and SSI benefits reported to HUD by public housing agencies on the Form HUD–50058. This process runs every month and generates two online reports: the Monthly Benefit History, which contains a list of all tenants to be re-certified, and the Income Discrepancy, which identifies tenants with discrepancies in SS and SSI benefit payments.

While the current process delivers great value by providing timely information that may be used to detect and prevent program abuse, TASS does not now gather information necessary to measure the amount of benefits incorrectly reported to the PHA. The information collection covered by this request will correct this deficiency.

HUD will also soon implement a complementary system to provide public housing agencies with an on-line source of a thirty-party-verified wage and unemployment benefit payments. Public housing agencies can use the information to verify tenant-supplied income-related information at the time of annual and interim re-examinations and to more accurately calculate the amount of rental assistance that tenants are entitled to receive. This will improve the accuracy of data reported to HUD on the Form HUD–50058.

The new system will also allow HUD to gather information necessary to measure the amount of tenants' gross wage and unemployment benefit payments that are incorrectly reported to public housing agencies. HUD can use the data, combined with that collected through TASS, to generate statistics to measure progress towards the Annual Performance Plan (APP) goal to reduce both the number of errors and the estimated net annual subsidy overpayment by 50% over the next three years.

Highlight of the Changes

(1) Form HUD–50058

The revised Form HUD–50058 reflects the initiative to remove obsolete and unnecessary lines from the form. The revised Form HUD–50058 contains 27% fewer lines and three fewer pages. The items removed from the existing Form HUD–50058 include section 14 (Manufactured Home Owner Renting the Space) and section 16 (Indian Mutual Help). Some Welfare to Work (WtW) elements of section 17 (Family Self-Sufficiency (FSS)/Welfare to Work (WtW) Voucher Addendum), space for five family members in Section 3 (Household), reserved field, and references to Indian Housing and Pre-merger (Certificates and Vouchers were also removed. HUD also removed lines numbered and labeled as follows: (2e)—''Date correction transmitted'', (2f)—''Repayment agreement?'', (2g)—''Monthly amount of repayment'', (2n)—''Other special programs: Number 03'', (2n)—''Other special programs: Number 04'', (2n))—''Other special programs: Number 05'', (2p)—''Use if instructed by HUD'', (3s)—Continued on an additional sheet?'', and (8u)—''Total annual travel cost to work/school (Indian Housing only)''.

(2) Form HUD–50058 MTW

The Department did not make any change to the current version of the Form HUD–50058 MTW (6/2001). As many MTW–PHA have already modified their software to meet the requirements of the existing Form HUD–50058 MTW (6/2001), and because the MTW–PHA will be required in the future to modified their software to accommodate the revised Form HUD–50058 when they transition out of the MTW program, the Department will not require the public housing agencies to revise their MTW–software at this time.

(3) Systems to Monitor Reductions in Subsidy Payment Errors

This notice also covers the collection of 9 additional data elements that will allow HUD to monitor and report progress towards the Annual Performance Plan goal to reduce program abuses. First, HUD will collect 3 data elements to measure the amount of Social Security (SS) and Supplemental Security Income (SSI) benefits that are incorrectly reported to public housing agencies. According to the proposed change, during the annual recertification meeting, public housing agencies will access the TASS reports to verify the SSA benefits amount. Once the amount of benefits is verified, users will be requested to enter information into two fields to report: the ''Amount initially reported by family'' and the ''Verified monthly benefit amount''. If there is a discrepancy, the user will be requested to select a code from a drop-down list to explain the reason for the discrepancy: ''SSA Error'', ''Tenant Error-Tenant Agrees with SSA Info'', or

''Tenant Error''. HUD will use this data to accurately measure and report the quantity of SS and SSI-related program abuse errors and the reasons for such discrepancies.

Second, HUD proposes to collect 6 additional data elements through a complementary system to measure the amount of gross wages and unemployment benefits that are incorrectly reported to public housing agencies. During re-certifications, public housing agencies will access state wage and unemployment benefit data in the system to verify the tenant-reported income amounts. Once the income is verified, users will enter information in four fields of the software system to report: The ''Gross wage amount initially reported by family'', the ''Verified monthly gross wage amount'', the ''Unemployment benefit amount initially reported by family'', and the ''Verified monthly unemployment benefit amount''. If there are discrepancies between the reported amounts and the verified amounts, the user will select a code from one or two drop-down lists to explain the reason for the discrepancy. The codes are ''State Error'', ''Tenant Error—Tenant Agrees with State Info'', or ''Tenant Error''. This data will be used to accurately measure and report the quantity of wage-related program errors and the reasons for such discrepancies. Together, the collection of these 9 data elements will permit HUD to monitor and report progress towards the Annual Performance Plan goal to reduce program abuses by 50% over the next three years.

This Notice also lists the following information:

Title of Proposal: Family Report, MTW Family Report, Reporting Discrepancy in Tenant-Reported Gross Income.

OMB Control Number(s): 2577–0083, 2577–0083 MTW.

Description of the need for the information and proposed use: Collection of this information is authorized by the U.S. Housing Act of 1937 (42 U.S.C. 1437, *et seq.*), Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), the Fair Housing Act (42 U.S.C. 3601–19), Section 214 of the Housing and Community Development Act of 1980, and Section 206 of the 1996 HUD Appropriations Act. The information collected through the Form HUD–50058 and the Form HUD–50058 MTW will be used to monitor and evaluate Office of Public and Indian Housing programs including the Public Housing, Section 8 Housing Choice Voucher, Section 8 Project Based Certificate, Section 8 Moderate Rehabilitation, and Moving-to-Work programs. The information collected through the systems to monitor reductions in subsidy payment errors will be used to monitor and report progress towards the Department's Annual Performance Plan goal to reduce subsidy payment errors by 15% in 2003, 30% by 2004, and the Presidential Management goal of reducing such errors by 50% by 2005.

Members of public affected: Public housing agencies, State and local governments, individuals and households.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: Initially, public housing agencies will need one half hour to input the data into each Form HUD–50058 or Form HUD–50058 MTW. After a one-year period, average input time should be reduced to 15 minutes per form. The reduction in time will be achieved by the pre-entering of information on the form that remains unchanged from the previous re-examination (*i.e.* tenant's name, tenant's date of birth, *etc.*). Public housing agencies that administer the Family Self Sufficiency (FSS) program will require an additional 15 minutes per form for completion of the information. Also, public housing agencies will need 1 minute to enter the SS and SSI information, and 1 minute to enter the gross wage and unemployment benefit information into payment subsidy monitoring systems.

ESTIMATED BURDEN HOURS OF THE PROPOSED INFORMATION COLLECTION

Information collection	Number of respondents	Responses per respondent	Total annual responses	Minutes per response	Total hours	Regulatory reference
HUD–50058	4,500	1,000	4,500,000	30	2,250,000	908.101, 960, 982, 984.
HUD–50058 MTW	22	9,008	198,176	30	99,088	908.101, 960, 982, 984.
Collections for Monitoring Reductions in Subsidy Payment Errors.	4,522	1,106	5,000,000	1	83,333	5.234, 5 Subpart F 68 FR 23753.

Projected One-Year Period: Hours per response will be reduced to 0.25 for total burden hours of 1,125,000 for the Form HUD–50058 and 49,544 for the Form HUD–50058 MTW.

Status of the proposed information collection: Extension of a currently approved collection—Form HUD–50058 MTW; extension and revision of currently approved collection—Form HUD–50058; and new collection for monitoring reductions in subsidy payment errors.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: June 26, 2003.

Michael Liu,

Assistant Secretary for Public and Indian Housing.

BILLING CODE 4210–33–M

OMB Approval Number XXXX-XXXX (expires XX/XX/XXXX)

U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

Family Report

Form HUD-50058, Family Report, applies to Public Housing and Section 8 programs.

Additional instructions are contained in the Form HUD-50058 Instruction Booklet. Copies of the Instruction Booklet can be found on the PIC Web Site at http://www.hud.gov/offices/pih/systems/pic/50058/pubs/

Public reporting burden for this collection of information is estimated to average 30 minutes per response in the first year and 15 minutes per response in subsequent years. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this Form, unless it displays a currently valid OMB control number.

Send the Form HUD-50058 data to the electronic address provided by HUD. Questions? Contact the PIC Help Hotline at 1-800-366-6827 or go to the PIC Web Site at: http://www.hud.gov/pih/systems/pic/index.cfm.

Each affected agency must submit information to assist HUD in managing and monitoring HUD assisted housing programs, to protect the Government's interest, and to verify the accuracy of the information received. HUD will use the information to: (1) monitor program participants' compliance with requirements, (2) provide demographic information describing tenants' characteristics, (3) participate in income matching, detect fraud, and (4) plan for future use of the housing inventory with emphasis on the housing needs of special groups. This collection is authorized by the U. S. Housing Act of 1937 (42 U. S. C. 1437 et seq.), Title VI of the Civil Rights Act of 1964 (42 U. S. C. 2000d) and by the Fair Housing Act (42 U. S. C. 3601-19).

Sensitive Information: The information on these forms is sensitive and is protected by the Privacy Act. Keep the forms locked and confidential.

Acronyms

FMR = Fair Market Rent
FSS = Family Self-Sufficiency program
HAP = Housing Assistance Payment
HOPE = Homeownership and Opportunity for People Everywhere
HQS = Housing Quality Standards
HUD = U. S. Department of Housing and Urban Development
ISA = Individual Savings Account
OMB = U. S. Office of Management and Budget
PHA = Public Housing Agency
PHRA = Public Housing Reform Act
PIC = Public and Indian Housing Information Center
SRO = Single Room Occupancy
SSA = Social Security Administration
SSI = Supplemental Security Income
SSN = Social Security Number
TANF = Temporary Assistance for Needy Families
TIN = Taxpayer Identification Number
TTP = Total Tenant Payment

Major Definitions (refer to the Form HUD-50058 Instruction Booklet for a more detailed definition of each field on the Form):

Disabilities: A person with disabilities has one or more of the following: (a) a disability as defined in Section 223 of the Social Security Act, (b) a physical, mental, or emotional impairment which is expected to be of long-continued and indefinite duration, substantially impedes his or her ability to live independently, and is of such a nature that such ability could be improved by more suitable housing conditions, or (c) a developmental disability as defined in Section 102 of the Developmental Disabilities Assistance and Bill of Rights Act. Note: Include persons who have the acquired immune deficiency syndrome (AIDS) or any condition that arises from the etiologic agent for AIDS.

Effective Date of Action: Date the reported action becomes effective. The effective date cannot be earlier than the date of admission to the program.

Head of household: The one adult member of the household, designated by the family or by PHA policy as the head of household, who is wholly or partly responsible for the rent payment.

Mixed Family: A family that contains some members that are eligible for assistance and some members that are ineligible for assistance. This family may be subject to prorated rent under the Noncitizens Rule.

Portability: Renting a dwelling unit with Section 8 assistance outside the jurisdiction of the initial PHA.

Form Conventions:

1. All fields that require the entry of a date must include the 4-digit year. Enter the date in a standard format (i. e., "mm/dd/yyyy", "mm/yyyy"). Enter the year in its entirety.
2. "/" means "or" unless otherwise noted.
3. Monetary figures: enter only whole dollar amounts. Do not show cents, commas, or dollar signs.
4. Rounding: round each monetary amount up when a number is 0.50 or above; down when a number is 0.49 or below.
5. Calculation column is a scratch area where PHAs may perform manual calculations.
6. Leave blank any line(s) or item(s) that do not apply unless this Form instructs otherwise.

Head of household name	Social Security Number	Date modified (mm/dd/yyyy)

Family Report

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval Number XXXX-XXXX

1. Agency

1a. Agency name	1a.
1b. PHA code ___ ___ ___ ___ ___	1b.
1c. Program P=Public Housing, CE= Sec. 8 Certificates, VO= Sec. 8 Vouchers MR= Sec. 8 Mod Rehab ___ ___	1c.
1d. Project number (Public Housing only) ___ ___ ___ ___ ___ ___ ___ ___ Suffix: ___ ___ ___	1d.
1e. Building number (Public Housing only) ___ ___ ___ ___ ___ ___	1e.
1f. Building entrance number (Public Housing only) ___ ___ ___	1f.
1g. Unit number (Public Housing only) ___ ___ ___ ___ ___ ___ ___ ___ ___ ___	1g.

2. Action

2a. Type of action	2a.
2b. Effective date (mm/dd/yyyy) of action	2b.
2c. Correction? (Y or N)	2c.
2d. If correction: (check primary reason) ☐ Family correction of income ☐ PHA correction of family income ☐ Family correction (non-income) ☐ PHA correction (non-income)	
2h. Date (mm/dd/yyyy) of admission to program	2h.
2i. Projected effective date (mm/dd/yyyy) of next reexamination	2i.
2j. Projected date (mm/dd/yyyy) of next flat rent annual update (Public Housing flat rent only)	2j.
2k. FSS participation now or in the last year? (Y or N)	2k.
2m. Special program: (Section 8 only) (check only one) ☐ Enhanced Voucher ☐ Welfare to Work Voucher	2m.
2n. Other special programs: Number 01	2n.
2n. Other special programs: Number 02	2n.
2q. PHA use only	2q.
2r. PHA use only	2r.
2s. PHA use only	2s.
2t. PHA use only	2t.
2u. PHA use only	2u.

2a. Type of action codes		
1 = New Admission	6 = End Participation	11 = Expiration of Voucher
2 = Annual Reexamination	7 = Other Change of Unit	12 = Flat Rent Annual Update (PH only)
3 = Interim Reexamination	8 = FSS/WtW Addendum Only	13 = Annual HQS Inspection Only (S8 only)
4 = Portability Move-in (VO only)	9 = Annual Reexamination Searching (VO only)	14 = Historical Adjustment
5 = Portability Move-out (VO only)	10 = Issuance of Voucher	15 = Void

1:	Agency
Line 1a:	Name of the Public Housing Agency (PHA) that completes the family's Form HUD-50058.
Line 1b:	Five-character code composed of the 2-letter postal state code and 3-digit PHA number. The state code indicates the location of the reporting PHA and the number identifies each PHA within a particular state.
Note:	For help obtaining the PHA's identification number, contact the appropriate HUD field office, the HA Profiles Web Site within PIC or the PIC Help Hotline at 1-800-366-6827.
Line 1c:	Using the codes provided, indicate the housing assistance program in which the family participates.
Line 1d:	Public Housing only. The project number is composed of the 2-letter project state code, 3-digit PHA number, 3-digit development number, and 3-digit suffix (if applicable).
Line 1e:	Public Housing only. Six-character code to capture the tenant's building number.
Line 1f:	Public Housing only. Three-character code to capture the building's entrance number.
Line 1g:	Public Housing only. Ten-character code to capture the PHA designated tenant unit number.
2:	Action
Line 2a:	Use the codes provided at the bottom of the page to report the family's type of action.
Note:	When a family that receives flat rent requires a reexamination, use Annual Reexamination (2a= 2).
Line 2b:	Date the reported action becomes effective.
Note:	The effective date cannot be earlier than the date of admission to the program (line 2h).
Line 2c:	Allows PHAs to correct fields previously transmitted in error.
Note:	Use a correction for a minor change to a previously submitted record.
Line 2d:	Indicate the primary reason for the correction record.
Line 2h:	Date the PHA initially admitted the family into the program reported in line 1c.
Line 2i:	The projected effective date of the family's next reexamination.
Line 2j:	Public Housing flat rent only. Projected effective date of the next flat rent annual update.
Line 2k:	Indicate if the family currently participates or participated in the Family Self-Sufficiency program in the past year.
Line 2m:	Section 8 only. Indicate if the family receives an Enhanced Voucher or a Welfare to Work Voucher.
Line 2n:	Indicate if the family participates in a special program.
Note:	See Form HUD-50058 Instruction Booklet for a listing of special programs and their abbreviations.
Line 2q-2u:	PHAs may use these lines for any information they wish to collect.
Note:	HUD encourages PHAs to use lines 2q through 2u for local initiatives.

Head of household name	Social Security Number	Date modified (mm/dd/yyyy)

3. Household

3a. Head of Household Member number 01	3b. Last name & Sr., Jr. etc.		3c. First name	3d. MI	3e. Date of birth	3f. Age on effective date of action
	3g. Sex	3h. Relation H	3i. Citizenship	3j. Disability (Y or N)	3k. Race ☐ 1. ☐ 2. ☐ 3. ☐ 4. ☐ 5.	3m. Ethnicity
	3n. Social Security Number		3p. Alien Registration Number A-		3q. Meeting community service or self-sufficiency requirement?	
3a. Member number 02	3b. Last name & Sr., Jr. etc.		3c. First name	3d. MI	3e. Date of birth	3f. Age on effective date of action
	3g. Sex	3h. Relation	3i. Citizenship	3j. Disability (Y or N)	3k. Race ☐ 1. ☐ 2. ☐ 3. ☐ 4. ☐ 5.	3m. Ethnicity
	3n. Social Security Number		3p. Alien Registration Number A-		3q. Meeting community service or self-sufficiency requirement?	
3a. Member number 03	3b. Last name & Sr., Jr. etc.		3c. First name	3d. MI	3e. Date of birth	3f. Age on effective date of action
	3g. Sex	3h. Relation	3i. Citizenship	3j. Disability (Y or N)	3k. Race ☐ 1. ☐ 2. ☐ 3. ☐ 4. ☐ 5.	3m. Ethnicity
	3n. Social Security Number		3p. Alien Registration Number A-		3q. Meeting community service or self-sufficiency requirement?	
3a. Member number 04	3b. Last name & Sr., Jr. etc.		3c. First name	3d. MI	3e. Date of birth	3f. Age on effective date of action
	3g. Sex	3h. Relation	3i. Citizenship	3j. Disability (Y or N)	3k. Race ☐ 1. ☐ 2. ☐ 3. ☐ 4. ☐ 5.	3m. Ethnicity
	3n. Social Security Number		3p. Alien Registration Number A-		3q. Meeting community service or self-sufficiency requirement?	
3a. Member number 05	3b. Last name & Sr., Jr. etc.		3c. First name	3d. MI	3e. Date of birth	3f. Age on effective date of action
	3g. Sex	3h. Relation	3i. Citizenship	3j. Disability (Y or N)	3k. Race ☐ 1. ☐ 2. ☐ 3. ☐ 4. ☐ 5.	3m. Ethnicity
	3n. Social Security Number		3p. Alien Registration Number A-		3q. Meeting community service or self-sufficiency requirement?	
3a. Member number 06	3b. Last name & Sr., Jr. etc.		3c. First name	3d. MI	3e. Date of birth	3f. Age on effective date of action
	3g. Sex	3h. Relation	3i. Citizenship	3j. Disability (Y or N)	3k. Race ☐ 1. ☐ 2. ☐ 3. ☐ 4. ☐ 5.	3m. Ethnicity
	3n. Social Security Number		3p. Alien Registration Number A-		3q. Meeting community service or self-sufficiency requirement?	
3a. Member number 07	3b. Last name & Sr., Jr. etc.		3c. First name	3d. MI	3e. Date of birth	3f. Age on effective date of action
	3g. Sex	3h. Relation	3i. Citizenship	3j. Disability (Y or N)	3k. Race ☐ 1. ☐ 2. ☐ 3. ☐ 4. ☐ 5.	3m. Ethnicity
	3n. Social Security Number		3p. Alien Registration Number A-		3q. Meeting community service or self-sufficiency requirement?	

3t. Total number in household	3t.
3u. Family subsidy status under Noncitizens Rule:	3u.
3v. Eligibility effective date (mm/dd/yyyy) if qualified for continuation of full assistance (3u=C)	3v.
3w. If new head of household, former head of household's SSN	3w.

3h. Relation codes:
H = head
S = spouse
K = co-head
F = foster child/foster Adult
Y = other youth under 18
E = full-time student 18+
L = live-in aide
A = other adult

3i. Citizenship codes:
EC = eligible citizen
EN = eligible noncitizen
N = ineligible noncitizen
PV = pending verification

3k. Race codes:
1 = White
2 = Black/African American
3 = American Indian/Alaska Native
4 = Asian
5 = Native Hawaiian/Other Pacific Islander

3m. Ethnicity codes:
1 = Hispanic or Latino
2 = not Hispanic or Latino

3q. Community service or self-sufficiency codes:
1 = yes
2 = no
3 = pending
4 = exempt
5 = n/a

3u. Family subsidy status codes:
C = qualified for continuation of full assistance
E = eligible for full assistance
F = eligible for full assistance pending verification of status
P = prorated assistance

3.	Household
Note:	Complete for each household member.
Note:	The first family member (member number 01) must be the head of household.
Note:	The household includes everyone who lives in the unit. Household members are used to determine unit size. The family includes all household members except live-in aides and foster children and foster adults. Family members are used to calculate subsidies and payments.
Line 3a:	The member number identifies the individual listed on that line of the Form.
Line 3b:	Indicate the last name of each household member. Include name suffixes, such as Jr., and separate with a comma. Do not include name prefixes, such as Ms. or Mr.
Line 3c:	Indicate the first name of each household member. Do not include name prefixes, such as Ms. or Mr.
Line 3d:	Indicate the middle initial of each household member. If no middle initial, leave blank. If more than one middle initial, only enter one.
Line 3e:	Indicate the date of birth for each household member.
Line 3f:	Indicate the age in years of each household member on the effective date of action (line 2b).
Line 3g:	Indicate the gender of each household member (M= Male, F= Female).
Line 3h:	Use code at bottom of page that best categorizes the relation or role of each household member.
Line 3i:	Use code at bottom of page that indicates each household member's United States citizenship status.
Line 3j:	Indicate whether or not the household member has a disability.
Line 3k:	Use code or codes at bottom of page that the family says best indicates each household member's race. Select as many codes as appropriate.
Line 3m:	Use code at bottom of page and check the box next to the code the family says best indicates each household member's ethnicity.
Line 3n:	Enter the 9-digit Social Security Number (SSN) issued to each household member by the Social Security Administration (SSA).
Note:	If a head of household does not have a SSN, PHA cannot transmit the family's Form HUD-50058 until there is system functionality to do so. If a member who is not the head does not have a SSN, enter 999999999.
Line 3p:	Enter the Alien Registration Number or A-number issued to each noncitizen household member, if applicable.
Note:	The A-number contains seven, eight or nine numerical digits preceded by the letter A, e. g., A72 735 827. If the A-number has seven digits, enter two zeros before the numbers. If the A-number has eight digits, enter one zero before the numbers. If the A-number has nine digits, enter the number without a leading zero. Do not enter the letter A in any case.
Line 3q:	Public Housing only. Use code at bottom of page to indicate whether the family member met his or her community service or self-sufficiency requirement under PHRA.
Note:	The law requires an average of eight hours of community service per month during the year.
Note:	Use '5' until the community service requirement comes into effect for your particular PHA.
Line 3t:	The total number of people in the household.
Note:	Count all persons. Include foster children or adults, live-in aides, and other unrelated individuals (who reside with the family as part of the household). Also include persons who are members of the household but temporarily absent from the home.
Line 3u:	Code that indicates the housing assistance eligibility for family members based on the Noncitizens Rule. The Noncitizens Rule allows PHAs to provide financial assistance to U. S. citizens, nationals, and non-U. S. citizens with eligible immigration status.
Note:	If the family's status under the Noncitizens Rule is prorated assistance (3u= P), the family should fill out the applicable prorated rent calculation when determining rent burden.
Line 3v:	Date the family originally qualified for the continuation of full assistance (3u= C).
Line 3w:	If the designated head of household changed due to discontinued occupancy or other cause such as death, marriage, or remarriage and there are family members who remain in the household, enter the former head of household's Social Security Number (SSN).

Head of household name	Social Security Number	Date modified (mm/dd/yyyy)

4. Background at Admission

4a. Date (mm/dd/yyyy) entered waiting list	4a.
4b. ZIP code before admission	4b.
4c. Homeless at admission? (Y or N)	4c.
4d. Does family qualify for admission over the very low-income limit? (Section 8 only) (Y or N)	4d.
4e. Continuously assisted under the 1937 Housing Act? (Y or N)	4e.
4f. Is there a HUD approved income targeting disregard? (Y or N)	4f.

5. Unit to be Occupied on Effective Date of Action

5a. Unit address

Number and street		Apt.
City	State	ZIP code (+4)

5b. Is mailing address same as unit address? (Y or N) (if yes, skip to 5d)	5b.

5c. Family's mailing address

Number and street		Apt.
City	State	ZIP code (+4)

5d. Number of bedrooms in unit	5d.
5e. Has the PHA identified this unit as an accessible unit? (Public Housing only) (Y or N)	5e.
5f. Has the family requested accessibility features? (Public Housing only) (Y or N) (if no, skip to next section)	5f.

5g. Has the family received requested accessibility features? (Public Housing only)

☐ a. Yes, fully ☐ b. Yes, partially ☐ c. No, not at all ☐ d. Action pending (can be checked in combination with b. or c.)

5h. Date (mm/dd/yyyy) unit last passed HQS inspection (Section 8 only, except Homeownership)	5h.
5i. Date (mm/dd/yyyy) of last annual HQS inspection (Section 8 only, except Homeownership)	5i.
5j. Year (yyyy) unit was built (Section 8 only)	5j.

5k. Structure type (check only one) (Section 8 only)

☐ Single family detached ☐ Semi-detached ☐ Rowhouse/townhouse

☐ Low-rise ☐ High rise with elevator ☐ Manufactured home

4:	**Background at Admission**
Line 4a:	Date the PHA placed the family on the waiting list for the program under which they currently receive housing assistance.
Note:	This date must not be later than effective date of action (line 2b).
Line 4b:	The 5-digit ZIP code (+ 4, if applicable) where the family lived before admission to an assistance program.
Line 4c:	Indicate whether or not the family was homeless at the time the PHA admitted the family to a housing assistance program.
Line 4d:	Section 8 only. Indicate whether or not the family qualified for program admission even though their income exceeds the very low-income limit (50% of the area's median income).
Line 4e:	Indicate whether or not the family is continuously assisted under or currently enrolled in any 1937 Housing Act program at the time of admission.
Line 4f:	Welfare to Work families only. Indicate if the family is disregarded for income targeting under a HUD approved disregard of a portion of welfare to work families.
5:	**Unit to be Occupied on Effective Date of Action**
Line 5a:	The complete address of the housing unit that the household occupies on the effective date of action (line 2b).
Line 5b:	Indicate whether the mailing address is different from the unit address.
Line 5c:	The complete address where the family receives mail, if other than the unit address indicated in line 5a.
Note:	Leave this field blank if the mailing address is the same as the unit address.
Line 5d:	Total number of bedrooms in the unit that the household will occupy on the effective date of action (line 2b).
Line 5e:	Public Housing only. Indicate whether or not the unit that the family occupies on the effective date of action (line 2b) is a PHA designated handicapped accessible unit.
Line 5f:	Public Housing only. Indicate whether or not the family requested disability amenities or accessibility features.
Line 5g:	Public Housing only. Indicate the status of the family's request for disability amenities and/or accessibility features (line 5f) on the effective date of action (line 2b).
Line 5h:	Section 8 only, except Homeownership. The last date the unit passed a full housing quality standards (HQS) inspection.
Line 5i:	Section 8 only, except Homeownership. The last date a PHA inspector performed a full annual housing quality standards (HQS) inspection of the unit that the household occupies.
Note:	This date may be different from the date unit last passed HQS inspection (line 5h) if the unit failed the last HQS inspection.
Line 5j:	Section 8 only. Indicate the year that the unit was built.
Note:	This date is found on the request for tenancy approval form.
Line 5k:	Section 8 only. Indicate the building structure type.
Note:	See the Instruction Booklet for descriptions of each housing type.

Head of household name	Social Security Number	Date modified (mm/dd/yyyy)

6. Assets

6a. Family member name	No.	6b. Type of asset	6c. Calculation (PHA use)	6d. Cash value of asset	6e. Anticipated Income
				$	$
				$	$
				$	$
				$	$
				$	$
				$	$
				$	$
				$	$
6f, 6g. Column totals				$ 6f.	$ 6g.
6h. Passbook rate (written as decimal)					0. 6h.
6i. Imputed asset income: 6f X 6h (if 6f is $5,000 or less, put 0)					$ 6i.
6j. Final asset income: larger of 6g or 6i					$ 6j.

7. Income

7a. Family member name	No.	7b. Income Code	7c. Calculation (PHA use)	7d. Dollars per year	7e. Income exclusions	7f. Income after exclusions (7d minus 7e)
				$	$	$
				$	$	$
				$	$	$
				$	$	$
				$	$	$
				$	$	$
				$	$	$
				$	$	$
				$	$	$
				$	$	$
				$	$	$
				$	$	$
7g. Column total						$ 7g.
7i. Total annual income: 6j + 7g						$ 7i.

7b: Income Codes		
Wages: B = own business F = federal wage HA = PHA wage M = military pay W = other wage	**Welfare:** G = general assistance IW = annual imputed welfare income T = TANF assistance **SS/SSI/Pensions:** P = pension S = SSI SS = Social Security	**Other Income Sources:** C = child support E = medical reimbursement I = Indian trust/per capita N = other nonwage sources U = unemployment benefits

6:	Assets
Note:	Use a separate line for each family member and asset type.
Line 6a:	The name of each family member in the household that has assets and their Member number (line(s) 3a) that corresponds to the asset information reported.
Line 6b:	List any asset that has a dollar value or provides a source of income to the person listed in column 6a.
Note:	See the Form HUD-50058 Instruction Booklet for an explanation of allowable assets.
Line 6c:	Use this column to perform asset calculations.
Line 6d:	Estimated, known or calculated dollar value of the asset listed.
Line 6e:	Total amount of income the family member expects to receive in the next 12-month period from the asset listed.
Line 6f, 6g:	Total of the values listed in column 6d.
Line 6h:	Enter the passbook rate as a decimal.
Note:	The HUD field office determines the Passbook rate of interest for the project locality based on the average interest rate received on a Passbook Savings Account at several banks in the local area.
Line 6i:	Imputed income from assets based on the total dollar value of the asset listed and the Passbook rate of interest.
Note:	If the total cash value of assets is $5,000 or less, enter 0.
Line 6j:	Total amount of household income derived from assets.
7:	Income
Note:	If the family members do not have any income from sources other than assets and do not expect any other income in the next 12-month period, leave 7a through 7g blank. Fill in total annual income (line 7i), which would be the total of the asset income.
Line 7a:	The name of each family member in the household that has income and their Member number (line(s) 3a) that corresponds to the income information reported.
Line 7b:	Use one or two letter code at bottom of page that represents the type of income for a family member.
Note:	See the Form HUD-50058 Instruction Booklet for a detailed description of each income code.
Line 7c:	Use this column to perform income calculations.
Line 7d:	Yearly income amount the family member receives from the income source(s) listed.
Note:	See the Form HUD-50058 Instruction Booklet for a description of each income source.
Line 7e:	Income excluded from annual income calculations.
Note:	Includes income disallowance and individual savings accounts (ISA) for Public Housing.
Note:	See the Form HUD-50058 Instruction Booklet for a description of each income exclusion.
Line 7f:	The family's total income minus any exclusions. Take dollars per year (line 7d) minus income exclusions (line 7e).
Line 7g:	The total of the dollar amounts listed in column 7f.
Line 7i:	The family's total annual income. Add the final asset income (line 6j) and the total income after income exclusions (line 7g).

Head of household name	Social Security Number	Date modified (mm/dd/yyyy)

8. Expected Income Per Year

8a. Total annual income: copy from 7i	$	8a.

Permissible Deductions (Public Housing Only. If Section 8, Skip to 8f or 8q)

8b. Family member name	No.	8c. Type of permissible deduction	8d. Amount
			$
			$
			$
			$
			$
			$

8e. Total permissible deductions (sum of column 8d)	$	8e.

If head/spouse/co-head is under 62 and no family member is disabled, skip to 8q

8f. Medical/disability threshold: 8a X 0.03	$	8f.
8g. Total annual unreimbursed disability assistance expense (if no disability expenses, skip to 8k)	$	8g.
8h. Maximum disability allowance: If 8g minus 8f is positive or zero, put amount	$	8h.
If negative and head/spouse/co-head is under 62 and not disabled, put 0	$	8h.
If negative and head/spouse/co-head is elderly or disabled, copy from 8g	$	8h.
8i. Earnings in 7d made possible by disability assistance expense	$	8i.
8j. Allowable disability assistance expense: lower of 8h or 8i (if 8g is less than 8f and head/spouse/co-head elderly or disabled, copy from 8h)	$	8j.
8k. Total annual unreimbursed medical expenses (if head/spouse/co-head under 62 and not disabled, put 0)	$	8k.
8m. Total annual disability assistance and medical expense: 8j + 8k (if no disability expenses, copy from 8k)	$	8m.
8n. Medical/disability assistance allowance: If no disability assistance expenses or if 8g is less than 8f, put 8m minus 8f (if 8m minus 8f is negative, put zero)	$	8n.
If disability assistance expenses and 8g is greater than or equal to 8f, copy from 8m	$	8n.
8p. Elderly/disability allowance (default = $400)	$	8p.
8q. Number of dependents (people under 18, or with disability, or full-time student. Do not count head of household, spouse, co-head, foster child/adult, or live-in aide.)		8q.
8r. Allowance per dependent (default = $480)	$	8r.
8s. Dependent allowance: 8q X 8r	$	8s.
8t. Total annual unreimbursed childcare costs	$	8t.
8x. Total allowances: 8e + 8n + 8p + 8s + 8t	$	8x.
8y. Adjusted annual income: 8a minus 8x (if 8x is larger, put 0)	$	8y.

8:	Expected Income Per Year
Line 8a:	The family's total annual family income. Copy from 7i.
Line 8b:	Public Housing only. The name of each family member in the household, and their individual Member number as indicated in line(s) 3a that corresponds to the income information reported.
Line 8c:	Public Housing only. The type of permissible deduction as determined by the PHA.
Line 8d:	Public Housing only. The amount of the permissible deduction.
Line 8e:	Public Housing only. The total of the dollar amounts (permissible deductions) listed in column 8d.
Note:	If the head of household and spouse or co-head are under age 62, and there are no family members with a disability, skip to line 8q. Otherwise, enter all medical expense information for the entire family in lines 8f through 8n.
Line 8f:	Amount of unreimbursed medical and disability expenses that the family must pay before the PHA can deduct an allowance for such expenses from their income. Multiply 0.03 by total annual income (line 8a).
Line 8g:	The family's total annual unreimbursed disability expenses.
Line 8h:	The amount the PHA may potentially deduct for the family's disability expenses. Subtract the medical/disability threshold (line 8f) from the total unreimbursed disability assistance expenses (line 8g).
Note:	If the maximum disability allowance is negative and head/spouse/co-head is under 62 and not disabled, enter 0.
Note:	If the maximum disability allowance is negative and head/spouse/co-head is elderly or disabled, copy the total unreimbursed disability assistance expenses (line 8g).
Line 8i:	Of a family's dollars per year listed in line 7d, determine the earned amount made possible by the unreimbursed disability expenses the family incurs.
Line 8j:	The total disability assistance expense amount the family may deduct. Lower of the maximum disability allowance (line 8h) or the earnings made possible by disability assistance expense (line 8i).
Note:	If the total unreimbursed disability assistance expense (line 8g) is less than the medical/disability threshold (line 8f), and head/spouse/co-head is elderly or disabled, copy the maximum disability allowance (line 8h).
Line 8k:	The total annual amount of the family's medical expenses that another source does not reimburse (e. g., co-payments for medical insurance).
Note:	If the head/spouse/co-head is under 62 and not disabled, enter 0.
Line 8m:	The amount of the family's total disability assistance (line 8j) and medical expenses (line 8k).
Note:	If no disability expenses, copy the total unreimbursed medical expenses (line 8k).
Line 8n:	The amount of the family's allowance for medical expenses and disability assistance expenses.
Note:	If the family does not have any disability assistance expenses or if the total unreimbursed disability assistance expenses (line 8g) is less than the medical/disability threshold (line 8f), enter the total disability assistance and medical expenses (line 8m) minus the medical/disability threshold (line 8f). If the difference is negative, put zero.
Note:	If disability assistance expense and the total unreimbursed disability assistance expense (line 8g) are greater than or equal to the medical/disability threshold (line 8f), copy the total disability assistance and medical expenses (line 8m).
Line 8p:	The family's standard allowance amount if the head of household or spouse or co-head is elderly (age 62 or over), or disabled. The current allowance is $400.
Line 8q:	The total number of dependents who live in the household and are under 18 years of age, or have a disability, or are full-time students of any age.
Line 8r:	Standard allowance amount for each dependent in the household.
Note:	The current allowance per dependent is $480.
Line 8s:	The amount of the family's dependent allowance. Multiply the number of dependents (line 8q) in the household by the standard allowance per dependent amount (line 8r).
Line 8t:	The household's total yearly unreimbursed childcare expenses.
Note:	This is the estimated amount a family expects to pay for childcare during the annual income period.
Line 8x:	The total amount of all of the family's allowances. Enter the sum of lines 8e, 8n, 8p, 8s, and 8t.
Line 8y:	The family's adjusted annual income. Subtract total allowances (line 8x) from total annual income (line 8a).
Note:	If 8x is larger, put 0.

Head of household name	Social Security Number	Date modified (mm/dd/yyyy)

9. Total Tenant Payment (TTP)

9a. Total monthly income: 8a ÷ 12	$	9a.
9c. TTP if based on annual income: 9a X 0.10	$	9c.
9d. Adjusted monthly income: 8y ÷ 12	$	9d.
9e. Percentage of adjusted monthly income: use 30% for Section 8		9e.
9f. TTP if based on adjusted annual income: (9d X 9e) ÷ 100	$	9f.
9g. Welfare rent per month (if none, put 0)	$	9g.
9h. Minimum rent (if waived, put 0)	$	9h.
9i. Enhanced Voucher minimum rent	$	9i.
9j. TTP, highest of lines 9c, 9f, 9g, 9h, or 9i	$	9j.
9k. Most recent TTP	$	9k.
9m. Qualify for minimum rent hardship exemption? (Y or N)		9m.

9:	Total Tenant Payment (TTP)
Line 9a:	Divide total annual income (line 8a) by 12 to get total monthly income.
Line 9c:	Multiply total monthly income (line 9a) by 0.10 to get total tenant payment (TTP) based on annual income.
Line 9d:	Divide adjusted annual income (line 8y) by 12 to get adjusted monthly income.
Line 9e:	Percentage of adjusted monthly income used to determine total tenant payment (TTP).
Note:	Use 30% for Section 8.
Line 9f:	Multiply the adjusted monthly income (line 9d) by percentage of adjusted monthly income (line 9e) and divide by 100 to get total tenant payment (TTP) based on adjusted monthly income.
Line 9g:	If the family receives welfare assistance, indicate the amount the welfare assistance agency specifically designates for shelter and utilities. The welfare assistance agency may adjust this amount in accordance with the actual cost of shelter and utilities.
Note:	If no welfare rent, put 0.
Line 9h:	Enter the PHA established monthly minimum rent amount. The PHA may require the tenant to pay a minimum rent amount up to $50.
Note:	If the PHA waived this payment because of financial hardship, enter 0.
Line 9i:	Enhanced Vouchers only. Enter the monthly rent that the family was paying on the date of the 'eligibility event' for the project.
Line 9j:	The total tenant payment (TTP). Indicate the highest amount listed in the lines 9c, 9f, 9g, 9h, or 9i.
Line 9k:	The most recent total tenant payment (TTP) amount for the family.
Note:	This amount is only available if the family previously lived in subsidized housing.
Line 9m:	Indicate if the family qualifies for a minimum rent hardship exemption.
Note:	Under PHRA, a family does not have to pay the PHA established minimum rent if they qualify for a financial hardship exemption.

Head of household name	Social Security Number	Date modified (mm/dd/yyyy)

10. Public Housing and Turnkey III

10a. TTP: copy from 9j		$	10a.
10b. Unit's flat rent (see Instruction Booklet for prorated flat rent calculation)		$	10b.

Income Based Rent Calculation (if prorated rent, skip to 10h)

10c. Income based ceiling rent, if any		$	10c.
10d. Lower of TTP or income based ceiling rent (if no income based ceiling rent, put 10a)		$	10d.
10e. Utility allowance, if any		$	10e.
10f. Tenant rent: 10d minus 10e	If positive or 0, put tenant rent	$	10f.
	If negative, credit tenant	$	10f.

Income Based Prorated Rent Calculation (if not prorated, skip to 10u)

10h. Public Housing maximum rent		$	10h.
10i. Family maximum subsidy: 10h minus 10a		$	10i.
10j. Total number eligible			10j.
10k. Total number in family			10k.
10n. Eligible subsidy (10i ÷ 10k) X 10j		$	10n.
10p. Mixed family TTP: 10h minus 10n		$	10p.
10r. Utility allowance, if any		$	10r.
10s. Mixed family tenant rent: 10p minus 10r	If positive or 0, put tenant rent	$	10s.
	If negative, credit tenant	$	10s.

Type of Rent

10u. Type of rent selected: ☐ Income based ☐ Flat

10:	Public Housing
Note:	Complete if the family's program type is Public Housing (line 1c= P) and family participates in Public Housing or Turnkey III, and the type of action is New Admission (2a= 1), Annual Reexamination (2a= 2), Interim Reexamination (2a= 3), or Other Change of Unit (2a= 7).
Line 10a:	The total tenant payment (TTP). Copy from 9j.
Line 10b:	Indicate the flat rent dollar amount.
Note:	Flat rent is set by the unit size and building.
Note:	If a PHA uses the income based ceiling rent amount for flat rent, input the income based ceiling rent amount in this line.
Note:	See the Instruction Booklet for the prorated flat rent calculation.
Line 10c:	The highest rent amount the PHA will require a family to pay for a particular unit size.
Note:	If no income based ceiling rent, enter 0.
Line 10d:	Indicate the lesser amount of either the total tenant payment (TTP) (line 10a) or income based ceiling rent (line 10c).
Note:	If there is no income based ceiling rent, enter the TTP (line 10a).
Line 10e:	If the payment does not include all utilities, indicate the monthly allowance amount for tenant supplied utilities that apply to the family occupied unit.
Note:	If there is no utility allowance, enter 0.
Line 10f:	The rent amount the family pays to the owner after deducting the utility allowance (line 10e) from the lower rent (line 10d) or the total credit amount the family receives to pay utilities.
Line 10h:	Indicate the maximum rent. To calculate the maximum rent, list the total tenant payments (TTP) paid by all tenants in this size unit in the PHA's jurisdiction from largest to smallest, then take the TTP that falls at the 95th percentile.
Line 10i:	Maximum amount of rent subsidy available to the family. Subtract total tenant payment (TTP) (line 10a) from the Public Housing maximum rent (line 10h).
Line 10j:	The total number of family members eligible for rent subsidy based on the Noncitizens Rule.
Line 10k:	The total number of family members in the household.
Note:	Include all family members, including ineligible noncitizen family members (3i= IN). Do not include live-in aides or foster children/adults.
Line 10n:	The total amount of rent subsidy for which the family is eligible. Divide family maximum subsidy (line 10i) by the total number in the family (line 10k) and multiply the product by the total number eligible (line 10j).
Line 10p:	Indicate the mixed family total tenant payment (TTP) for the unit based on the proration calculation. Public Housing maximum rent (line 10h) minus eligible subsidy (line 10n).
Line 10r:	If the payment does not include all utilities, indicate the monthly allowance amount for tenant supplied utilities that apply to the family occupied unit.
Note:	If there is no utility allowance, enter 0.
Line 10s:	The rent amount the family pays to the owner after deducting the utility allowance (line 10r) from the mixed family total tenant payment (TTP) (line 10p), or the total credit amount the family receives to pay for utilities.
Line 10u:	Indicate whether the family selected an income based rent or a flat rent.

Head of household name	Social Security Number	Date modified (mm/dd/yyyy)

11. Section 8: Project Based Certificates and Vouchers

11a. Number of bedrooms in unit			11a.
11b. Is family now moving to this unit? (Y or N)			11b.
11d. Did family move into your PHA jurisdiction under portability? (Y or N) (if no, skip to 11g)			11d.
11e. Cost billed per month (put 0 if absorbed)		$	11e.
11f. PHA code billed			11f.
11g. Housing type: ☐ Group Home (prorate gross rent) ☐ SRO: 1 room occupied by 1 person			
11h. Owner name			11h.
11i. Owner TIN/SSN			11i.
11k. Contract rent to owner (if unit has other subsidy, put subsidized rent)		$	11k.
11m. Utility allowance, if any		$	11m.
11n. Gross rent of unit: 11k + 11m		$	11n.
11q. TTP: copy from 9j		$	11q.

Rent Calculation (if prorated rent, skip to 11aa)

11r. Total HAP: 11n minus 11q. If 11q is larger, put 0		$	11r.
11s. Tenant rent: 11k minus 11r	If positive or 0, put tenant rent	$	11s.
	If negative, credit tenant	$	11s.
11t. HAP to owner: lower of 11k or 11r		$	11t.

Prorated Rent Calculation

11aa. Normal total HAP: 11n minus 11q (skip to 11ae)		$	11aa.
11ae. Total number eligible			11ae.
11af. Total number in family			11af.
11ag. Proration percentage: 11ae ÷ 11af			11ag.
11ah. Prorated total HAP: 11aa X 11ag		$	11ah.
11ai. Mixed family TTP: 11n minus 11ah		$	11ai.
11aj. Utility allowance: copy from 11m		$	11aj.
11ak. Mixed family tenant rent: 11ai minus 11aj	If positive or 0, put tenant rent	$	11ak.
	If negative, credit tenant	$	11ak.
11an. Prorated HAP to owner: 11k minus 11ak (if 11ak is negative, put 11k)		$	11an.

11:	Section 8: Project Based Certificates and Vouchers
Note:	Complete if the family's program type is Certificates (1c= CE) for Project Based Certificates or Vouchers (1c= VO) for Project Based Vouchers and type of action is New Admission (2a= 1), Annual Reexamination (2a= 2), Interim Reexamination (2a= 3), Portability Move-in (2a= 4), or Other Change of Unit (2a= 7).
Line 11a:	Unit size (number of bedrooms).
Line 11b:	Indicate if the family is now moving into the unit.
Line 11d:	Indicate whether or not the household will move or has moved into the PHA's jurisdiction under portability.
Line 11e:	Monthly amount billed to the initial PHA for the family's housing assistance payment (HAP), on-going administrative fee, and any utility reimbursement to the family.
Note:	Enter 0 if the family was absorbed by the receiving PHA.
Line 11f:	The initial PHA's 2-letter state code and 3-digit identification number.
Note:	For help obtaining the initial PHA's identification number, contact the appropriate HUD field office, the HA Profiles Web Site within PIC or the PIC Help Hotline at 1-800-366-6827.
Line 11g:	Check the housing type that applies to the family's housing unit.
Line 11h:	The Section 8 unit owner's legal name.
Line 11i:	Tax identification number (TIN) or Social Security Number (SSN) of the legal unit owner.
Line 11k:	Total monthly rent amount paid to the unit owner under the lease, or other subsidized rent amount.
Line 11m:	If the payment does not include all utilities, indicate the monthly allowance amount for tenant supplied utilities that apply to the family occupied unit.
Line 11n:	To get the unit's total monthly rent amount, or gross rent, add the contract rent to owner (line 11k) and the utility allowance (line 11m).
Line 11q:	The total tenant payment (TTP). Copy from 9j.
Line 11r:	Total housing assistance payment (HAP), which is composed of the gross rent of unit (line 11n) minus total tenant payment (TTP) (line 11q).
Line 11s:	The rent amount the family pays to the owner after deducting the total housing assistance payment (HAP) (line 11r) from the contract rent to owner (line 11k), or the total credit amount the family receives to pay utilities.
Line 11t:	The amount of the housing assistance payment (HAP) to the unit owner. Indicate the lower amount of the contract rent to owner (line 11k) or total HAP (line 11r).
Line 11aa:	Amount of the normal total housing assistance payment. Subtract total tenant payment (TTP) (line 11q) from gross rent (line 11n).
Line 11ae:	Total number of family members eligible for a rent subsidy based on the Noncitizens Rule.
Line 11af:	Total number of family members in household.
Note:	Include all family members, including ineligible noncitizen family members (3i= IN). Do not include live-in aides or foster children/adults.
Line 11ag:	Percentage of family eligible for rent subsidy. Divide total number eligible (line 11ae) by total number in family (line 11af).
Line 11ah:	Total prorated housing assistance payment (HAP). Multiply normal total HAP (line 11aa) by proration percentage (line 11ag).
Line 11ai:	Total tenant payment (TTP) for the unit based on the proration calculation. Gross rent of unit (line 11n) minus prorated total housing assistance payment (HAP) (line 11ah).
Line 11aj:	Monthly allowance amount for tenant supplied utilities if the payment does not include all utilities. Copy from line 11m.
Line 11ak:	The rent amount the family pays to the owner after deducting the utility allowance (line 11aj) from the mixed family total tenant payment (TTP) (line 11ai), or the total credit amount the family receives to pay utilities.
Line 11an:	The total prorated housing assistance payment (HAP) to the unit owner. Subtract the mixed family tenant rent (line 11ak) from the contract rent to owner (line 11k).
Note:	If the mixed family tenant rent (line 11ak) is negative, enter the contract rent to owner (line 11k).

Head of household name	Social Security Number	Date modified (mm/dd/yyyy)

12. Section 8: Vouchers

12a. Number of bedrooms on Voucher		12a.
12b. Is family now moving to this unit? (Y or N)		12b.
12c. Does the family qualify as a Hard to House family? (Y or N)		12c.
12d. Did family move into your PHA jurisdiction under portability? (Y or N) (if no, skip to 12g)		12d.
12e. Cost billed per month (put 0 if absorbed)	$	12e.
12f. PHA code billed		12f.

12g. Housing type: ☐ Group Home (prorate gross rent) ☐ Own manufactured home, lease space ☐ SRO: 1 room occupied by 1 person

12h. Owner name		12h.
12i. Owner TIN/SSN		12i.
12j. Payment standard for the family	$	12j.
12k. Rent to owner	$	12k.
12m. Utility allowance, if any	$	12m.
12p. Gross rent of unit: 12k + 12m (or Space Rent)	$	12p.
12q. Lower of 12j or 12p	$	12q.
12r. TTP: copy from 9j	$	12r.
12s. Total HAP: 12q minus 12r	$	12s.

Rent Calculation (if prorated rent, skip to 12ab)

12t. Total family share: 12p minus 12s	$	12t.
12u. HAP to owner: lower of 12k or 12s	$	12u.
12v. Tenant rent to owner: 12k minus 12u	$	12v.
12w. Utility reimbursement to family: 12s minus 12u, but do not exceed 12m	$	12w.

Prorated Rent Calculation

12ab. Normal total HAP: copy from 12s, but do not exceed 12p		$	12ab.
12ac. Total number eligible			12ac.
12ad. Total number in family			12ad.
12ae. Proration percentage: 12ac ÷ 12ad			12ae.
12af. Prorated total HAP: 12ab X 12ae		$	12af.
12ag. Mixed family total family contribution: 12p minus 12af		$	12ag.
12ah. Utility allowance: copy from 12m		$	12ah.
12ai. Mixed family tenant rent to owner:	If positive or 0, put tenant rent	$	12ai.
12ag minus 12ah	If negative, credit tenant	$	12ai.
12aj. Prorated HAP to owner: 12k minus 12ai. If 12ai is negative, put 12k		$	12aj.

12:	Section 8: Vouchers
Note:	Complete if program type is Tenant Based Voucher (1c= VO) and type of action is New Admission (2a= 1), Annual Reexamination (2a= 2), Interim Reexamination (2a= 3), Portability Move-in (2a= 4), or Other Change of Unit (2a= 7).
Line 12a:	Unit size (number of bedrooms) listed on the family's Voucher.
Line 12b:	Indicate if the family is now moving into the unit.
Line 12c:	Indicate whether or not the family qualifies as Hard to House. A family qualifies as Hard to House if there are three or more minors or if there is a disabled family member and the family is moving to a different unit.
Line 12d:	Indicate whether or not the household will move or has moved into the PHA's jurisdiction under portability.
Line 12e:	Monthly amount billed to the initial PHA for the family's housing assistance payment (HAP) amount, on-going administrative fee, and any utility reimbursement to the family.
Note:	Enter 0 if the family was absorbed by the receiving PHA.
Line 12f:	The initial PHA's 2-letter state code and 3-digit identification number.
Note:	For help obtaining the initial PHA's identification number, contact the appropriate HUD field office, the HA Profiles Web Site within PIC or the PIC Help Hotline at 1-800-366-6827.
Line 12g:	Check the housing type that applies to the family's housing unit.
Line 12h:	The Section 8 unit owner's legal name.
Line 12i:	Tax identification number (TIN) or Social Security Number (SSN) of the legal unit owner.
Line 12j:	Enter maximum monthly assistance payment for a family assisted in the Voucher program.
Line 12k:	Total monthly rent payable to the unit owner under the lease for the contract unit.
Line 12m:	If the payment does not include all utilities, indicate the monthly allowance amount for tenant supplied utilities that apply to the family occupied unit.
Line 12p:	Gross rent of unit or space rent. Add rent to owner (line 12k) to the utility allowance (line 12m).
Line 12q:	Lower of Voucher payment standard for family (line 12j) or gross rent of unit (line 12p).
Line 12r:	Total tenant payment (TTP). Copy from 9j.
Line 12s:	Total housing assistance payment (HAP), which is composed of the lower of the payment standard for the family or gross rent (line 12q) minus total tenant payment (TTP) (line 12r).
Line 12t:	Amount the family contributes toward rent and utilities. Subtract total housing assistance payment (HAP) (line 12s) from gross rent of unit (line 12p).
Line 12u:	The amount of the housing assistance payment (HAP) to the unit owner. Indicate the lower of the rent to owner (line 12k) or total HAP (line 12s).
Line 12v:	Rent amount the family pays to the owner after deducting the housing assistance payment (HAP) to owner (line 12u) from the rent to owner (line 12k).
Line 12w:	The utility reimbursement to the family from the PHA. Subtract housing assistance payment (HAP) to owner (line 12u) from total HAP (line 12s), but do not exceed the utility allowance (line 12m).
Line 12ab:	The amount of the normal total housing assistance payment (HAP).
Line 12ac:	Total number of family members eligible for rent subsidy based on the Noncitizens Rule.
Line 12ad:	Total number of family members in household.
Note:	Include all family members, including ineligible noncitizen family members (3i= IN). Do not include live-in aides or foster children/adults.
Line 12ae:	Percentage of family eligible for rent subsidy. Divide total number eligible (line 12ac) by total number in the family (12ad).
Line 12af:	Multiply total normal housing assistance payment (HAP) (line 12ab) by the proration percentage (line 12ae).
Line 12ag:	Indicate the mixed family total family contribution based on the proration calculation. Take the gross rent of unit (line 12p) minus prorated total housing assistance payment (HAP) (line 12af).
Line 12ah:	If the payment does not include all utilities, indicate the monthly allowance amount for tenant supplied utilities that apply to the family occupied unit.
Line 12ai:	The rent amount the family pays to the owner after subtracting the utility allowance (line 12ah) from the mixed family total family contribution (line 12ag); or the total credit amount the family receives to pay for utilities.
Line 12aj:	The total prorated amount of the housing assistance payment (HAP) to the unit owner. Subtract the mixed family tenant rent to owner (line 12ai) from the rent to owner (line 12k).
Note:	If the mixed family tenant rent to owner (line 12ai) is negative, enter the rent to owner (line 12k).

Head of household name	Social Security Number	Date modified (mm/dd/yyyy)

13. Section 8: Moderate Rehabilitation (Mod Rehab)

13a. HAP contract number ___ ___ - ___ ___ ___ - ___ R ___ ___ - ___ ___ ___ ___			13a.
13b. Mod Rehab SRO Program for homeless? (Y or N)			13b.
13c. Mod Rehab SRO unit (not homeless program)? (Y or N)			13c.
13d. Owner name			13d.
13e. Owner TIN/SSN			13e.
13f. Current base rent		$	13f.
13g. Rehabilitation debt service		$	13g.
13h. Contract rent to owner: 13f + 13g		$	13h.
13i. Utility allowance, if any		$	13i.
13j. TTP: copy from 9j		$	13j.

Rent Calculation (if prorated, skip to 13p)

13k. Tenant rent: 13j minus 13i (if 13j is greater than 13h + 13i, put 13h)	If positive or 0, put tenant rent	$	13k.
	If negative, credit tenant	$	13k.
13m. HAP to owner: 13h minus 13k (if 13k is negative, put 13h)		$	13m.

Prorated Rent Calculation

13p. Gross rent: 13h + 13i		$	13p.
13q. Normal total HAP: 13p minus 13j		$	13q.
13r. Total number eligible			13r.
13s. Total number in family			13s.
13t. Proration percentage: 13r ÷ 13s			13t.
13u. Prorated total HAP: 13q X 13t		$	13u.
13v. Mixed family TTP: 13p minus 13u		$	13v.
13w. Utility allowance: copy from 13i		$	13w.
13x. Mixed family tenant rent: 13v minus 13w	If positive or 0, put tenant rent	$	13x.
	If negative, credit tenant	$	13x.
13z. Prorated HAP to owner: 13h minus 13x (if 13x is negative, put 13h)		$	13z.

13:	Section 8: Moderate Rehabilitation (Mod Rehab)
Note:	Complete if program type is Moderate Rehabilitation (1c= MR) and type of action is New Admission (2a= 1), Annual Reexamination (2a= 2), Interim Reexamination (2a= 3), or Other Change of Unit (2a= 7).
Line 13a:	The housing assistance payment (HAP) contract number. Include the sequence number for each HAP contract. Note: The HAP contract sequence number identifies the particular HAP contract as under the project (funding increment).
Line 13b:	Indicate whether the family's unit is in a Single-Room Occupancy (SRO) project under the SRO Program for Homeless Individuals.
Line 13c:	Indicate whether the family's unit is a Single-Room Occupancy (SRO) unit, but not under the SRO Program for Homeless Individuals.
Line 13d:	The Section 8 unit owner's legal name.
Line 13e:	Tax identification number (TIN) or Social Security Number (SSN) of the legal unit owner.
Line 13f:	The current base rent for the unit that reflects the most recent rent adjustment.
Line 13g:	The owner's current monthly rehabilitation debt service payments for the unit.
Line 13h:	The monthly rent amount paid to the Mod Rehab unit owner as specified in the housing assistance payment (HAP) contract. Add the current base rent (line 13f) to any monthly rehabilitation debt service (line 13g).
Line 13i:	If the payment does not include all utilities, indicate the monthly allowance amount for tenant supplied utilities that apply to the family occupied unit.
Line 13j:	The total tenant payment (TTP). Copy from 9j.
Line 13k:	The rent amount the family pays to the owner after deducting the utility allowance (line 13i) from the total tenant payment (TTP) (line 13j); or the total credit amount the family receives to pay for utilities.
Line 13m:	The amount of the housing assistance payment (HAP) to the unit owner. Subtract the tenant rent (line 13k) from the contract rent to owner (line 13h).
Note:	If the tenant rent (line 13k) is negative, enter the contract rent to owner (line 13h).
Line 13p:	The unit's total monthly rent amount. Add the contract rent to owner (line 13h) to the utility allowance (line 13i).
Line 13q:	The amount of the normal total housing assistance payment (HAP). Subtract total tenant payment (TTP) (line 13j) from the gross rent (line 13p).
Line 13r:	Total number of family members eligible for rent subsidy based on the Noncitizens Rule.
Line 13s:	Total number of family members in household.
Note:	Include all family members, including ineligible noncitizen family members (3i= IN). Do not include live-in aides or foster children/adults.
Line 13t:	Percentage of family eligible for rent subsidy. Divide the total number eligible (line 13r) by the total number in family (line 13s).
Line 13u:	The prorated housing assistance payment (HAP). Multiply the normal total HAP (line 13q) by the proration percentage (line 13t).
Line 13v:	Indicate the mixed family total tenant payment (TTP). Subtract the prorated total housing assistance payment (HAP) (line 13u) from the gross rent (line 13p).
Line 13w:	If the payment does not include all utilities, indicate the monthly allowance amount for tenant supplied utilities that apply to the family occupied unit.
Line 13x:	The rent amount the family pays to the owner after deducting the utility allowance (line 13w) from the mixed family total tenant payment (TTP) (line 13v); or the total credit amount the family receives to pay for utilities.
Line 13z:	The total prorated amount of the housing assistance payment (HAP) to the unit owner. Subtract the mixed family tenant rent (line 13x) from the contract rent to owner (line 13h).

Head of household name	Social Security Number	Date modified (mm/dd/yyyy)

15. Section 8: Homeownership

15a. Is family now moving to this home? (Y or N)		15a.
15b. Date (mm/dd/yyyy) of initial HQS inspection		15b.
15c. Did family move into your PHA jurisdiction under portability? (Y or N) (if no, skip to15f)		15c.
15d. Cost billed per month (put 0 if absorbed)	$	15d.
15e. PHA code billed		15e.
15f. Monthly homeownership payment (PITI & MIP if applicable)	$	15f.
15g. Utility allowance	$	15g.
15h. Monthly maintenance allowance	$	15h.
15i. Monthly major repair/replacement allowance	$	15i.
15j. Monthly Co-op/Condominium assessments	$	15j.
15k. Monthly principal and interest on debt for improvements, if any	$	15k.
15m. Gross homeownership expense: 15f + 15g + 15h + 15i + 15j + 15k	$	15m.
15n. Payment standard for family	$	15n.
15p. Lower of 15m and 15n	$	15p.
15q. TTP: copy from 9j	$	15q.
15r. HAP: 15p minus 15q (if 15q is larger, put 0)	$	15r.

Subsidy Calculation (if prorated, skip to 15aa)

15s. Total family share: 15m minus 15r	$	15s.

Prorated Subsidy Calculation

15aa. Normal total HAP: copy from 15r	$	15aa.
15ab. Total number eligible		15ab.
15ac. Total number in family		15ac.
15ad. Proration percentage: 15ab ÷ 15ac		15ad.
15ae. Prorated HAP: 15aa X 15ad	$	15ae.
15af. Mixed family total family share: 15m minus 15ae	$	15af.

15:	Section 8: Homeownership
Note:	Complete if program type is Homeownership (line 1c= VO) and type of action is New Admission (2a= 1), Annual Reexamination (2a= 2), Interim Reexamination (2a= 3), Portability Move-in (2a= 4), or Other Change of Unit (2a= 7).
Line 15a:	Indicate if the family is now moving into the home.
Line 15b:	Date of the initial housing quality standards (HQS) inspection.
Line 15c:	Indicate whether or not the household will move or has moved into the PHA's jurisdiction under portability.
Line 15d:	Monthly amount billed to the initial PHA for the family's housing assistance payment (HAP) amount, on-going administrative fee, and any utility reimbursement to the family.
Note:	Enter 0 if the family was absorbed by the receiving PHA.
Line 15e:	The initial PHA's 2-letter state code and 3-digit identification number.
Note:	For help obtaining the initial PHA s identification number, contact the appropriate HUD field office, the HA Profiles Web Site within PIC or the PIC Help Hotline at 1-800-366-6827.
Line 15f:	The monthly homeownership cost.
Note:	Includes principal and interest on initial mortgage debt, taxes and insurance (PITI) and any mortgage insurance premium (MIP), if applicable.
Line 15g:	The PHA's utility allowance for the unit.
Line 15h:	The amount of PHA's allowance for the homeowner's monthly routine maintenance costs.
Line 15i:	The amount of the PHA's allowance for the homeowner's major home repairs and replacements.
Line 15j:	If applicable, enter co-op occupancy charges or condominium association assessments.
Line 15k:	The amount of principal and interest for debt associated with home improvements on the unit.
Line 15m:	Calculation of tenant's total cost of homeownership. Sum of 15f through 15k.
Line 15n:	Enter the lower of the payment standard for the unit size as indicated on the family's Voucher or the payment standard for the unit size that the family actually owns.
Line 15p:	The lower of gross homeownership expense (line 15m) and the payment standard for the family (line 15n).
Line 15q:	Total tenant payment (TTP). Copy from 9j.
Line 15r:	The amount of monthly homeownership assistance payment (HAP). Subtract total tenant payment (TTP) (line 15q) from the lower of 15m and 15n (line 15p).
Note:	If the TTP (line 15q) is larger, enter 0.
Line 15s:	Total amount the family contributes toward homeownership. Subtract housing assistance payment (HAP) (line 15r) from gross homeownership expense (line 15m).
Line 15aa:	The amount of the normal total housing assistance payment.
Line 15ab:	Total number of family members eligible for homeownership subsidy based on the Noncitizens Rule.
Line 15ac:	Total number of family members in the household.
Note:	Include all family members, including ineligible noncitizen family members (3i= IN). Do not include live-in aides or foster children/adults.
Line 15ad:	Percentage of family eligible for homeownership subsidy. Divide the total number eligible (line 15ab) by the total number in family (line 15ac).
Note:	Do not include live-in aides or foster children and adults. Include ineligible noncitizen family members as part of the total family number.
Line 15ae:	The total prorated amount of the homeownership assistance payment (HAP) to the homeowner. Multiply normal total HAP (line 15aa) by the proration percentage (line 15ad).
Line 15af:	Indicate the mixed family total family contribution based on the proration calculation. Subtract the prorated housing assistance payment (HAP) (line 15ae) from the gross homeownership expense (line 15m).

Head of household name	Social Security Number	Date modified (mm/dd/yyyy)

17. Family Self-Sufficiency (FSS)/ Welfare to Work (WtW) Voucher Addendum

17a. Participate in special programs? (check all that apply) ☐ FSS ☐ Welfare to Work Voucher

17b. FSS report category: (check no more than one) ☐ Enrollment ☐ Progress ☐ Exit

17c. FSS effective date (mm/dd/yyyy) of action — 17c.

17d. PHA code of PHA administering FSS contract — 17d.

17e. WtW report category (check no more than one) ☐ Enrollment ☐ Progress ☐ Exit

17f. WtW effective date (mm/dd/yyyy) of action — 17f.

17g. (1) PHA code of PHA that issued the WtW Voucher — 17g(1).

(2) PHA code of PHA counting the family as enrolled in its WtW Voucher program (if different from 17g(1)) — 17g(2).

17h. General information

(1) Current employment status of head of household. Check the box to indicate the head of household's employment status at the time addendum completed.

☐ Full-time (32 hours per week or more) ☐ Part-time ☐ Not employed

(2) Date (mm/dd/yyyy) current employment began — 17h(2).

(3) Benefits in current employment: (check all that apply) ☐ Health ☐ Retirement account ☐ Other

(4) Years of school completed by the head of household. Enter the highest grade of education or years of formal schooling the head of household completed at the time Addendum is submitted. (0-25) — 17h(4).

(5) Assistance received by the family: (check all that apply)

☐ TANF Income Assistance ☐ General Assistance ☐ Food Stamps

☐ Medicaid/Children's Health Insurance Program ☐ Earned Income Tax Credit

(6) Number of children receiving childcare services — 17h(6).

17i. Family services table (optional for WtW Voucher)

	(1) Need (Y or N)	(2) Need Met During Participation in Program (Y or N)	(3) Service Provider
Education/Training			
GED			
High school			
Post secondary			
Vocational/Job training			
Job search/job placement			
Job retention			
Transportation			
Health services			
Alcohol and other drug abuse prevention services			
Mentoring			
Homeownership counseling			
Individual Development Account (IDA)			
Child care			
None			

17i (3) Service provider codes:

P = PHA D = DOL grantee PR = For profit entity E = Employer

T = TANF agency V = Voluntary organization N = Nonprofit agency C = Community college

17:	Family Self-Sufficiency (FSS)/ Welfare to Work (WtW) Voucher Addendum
Note:	Complete this section if the family participates in the Family Self-Sufficiency or Welfare to Work Programs.
Line 17a:	Identify if the family participates in a Family Self-Sufficiency (FSS) program, a Welfare to Work (WtW) Voucher program, or both.
Line 17b:	Check one category to indicate the purpose of the FSS Addendum.
Line 17c:	The effective date of the FSS action.
Line 17d:	The PHA code associated with the PHA that provides the FSS services.
Note:	For help obtaining the PHA's identification number, contact the appropriate HUD field office, the HA Profiles Web Site within PIC or the PIC Help Hotline at 1-800-366-6827.
Line 17e:	Check one category to indicate the purpose of the WtW Addendum.
Line 17f:	The effective date of the WtW action.
Line 17g(1):	The PHA code associated with the PHA that issued the WtW Voucher. For unknown issuing PHAs, enter own PHA code.
Line 17g(2):	The PHA code of the PHA counting the family as enrolled.
Note:	Only complete if this PHA code differs from 17g(1).
Line 17h(1):	Indicate the head of household's current employment status.
Line 17h(2):	The date the head of household began his/her current job.
Line 17h(3):	Indicate the head of household's current employment benefits. Check all that apply.
Line 17h(4):	Enter the highest *grade* or the *full* years of formal schooling that the head of household completed (0-25).
Note:	Years of schooling begin with first grade (do not count kindergarten or pre-school).
Line 17h(5):	Indicate whether or not the family receives additional assistance, such as food stamps, Medicaid, TANF assistance, or the earned income tax credit.
Line 17h(6):	Indicate the number of children in the household who receive childcare services.
Line 17i(1):	Indicate whether or not the PHA identified individual training and service needs of the family members.
Line 17i(2):	If the PHA identified certain needs for family members, indicate whether or not these needs were met during participation in the FSS program.
Line 17i(3):	Using the codes provided at bottom of page, indicate the type of service provider that meets the participant's need.

Head of household name	Social Security Number	Date modified (mm/dd/yyyy)

Family Self-Sufficiency Program (if not in FSS program, skip to 17n)

17j. FSS Contract Information		
(1) Initial start date (mm/yyyy) of contract of participation (FSS enrollment report only)		17j(1).
(2) Initial end date (mm/yyyy) of contract of participation (FSS enrollment report only)		17j(2).
(3) Contract date extended to (mm/yyyy) (if applicable)		17j(3).
(4) Number of family members with Individual Training and Services Plan		17j(4).
(5) Did the family receive selection preference because of a FSS related service program participation? (FSS enrollment report only) (Y or N)		17j(5).
17k. FSS account information		
(1) Current FSS account monthly credit	$	17k(1).
(2) Current FSS account balance	$	17k(2).
(3) FSS account amount disbursed to the family (cumulative as of end of reporting period)	$	17k(3).
17m. FSS exit information (FSS Exit Report only)		
(1) Did family complete contract of participation? (Y or N)		17m(1).
(2) If (1) is Yes, did family move to homeownership? (Y or N)		17m(2).

(3) If (1) is No, primary reason for exit:

☐ Left voluntarily ☐ Portability move-out ☐ Contract expired but family did not fulfill obligations

☐ Asked to leave program ☐ Left because essential service was unavailable

Welfare to Work Voucher Program

17n. WtW program information	
(1) Date (mm/dd/yyyy) Voucher issued (WtW enrollment report only)	17n(1).
(2) Date (mm/dd/yyyy) of request for lease approval (RFLA) for a unit leased	17n(2).
17q. Welfare to Work exit information (WtW exit report only)	
(1) Is the family moving to homeownership? (Y or N)	17q(1).

(2) Primary reason for leaving the WtW Voucher program:

☐ Portability move-out

☐ Family no longer needs subsidy

☐ Subsidy terminated for Section 8 program violation, other than WtW obligations

☐ Subsidy terminated for violation of WtW obligations

☐ Family voluntarily withdrew from Section 8 program

☐ Other

17:	Family Self-Sufficiency (FSS)/ Welfare to Work (WtW) Voucher Addendum (continued)
Line 17j(1):	FSS enrollment report only. The effective date of the family's FSS contract of participation; the date the family *initially* enrolled in the FSS program.
Line 17j(2):	FSS enrollment report only. The expiration date of the family's FSS contract of participation; the date the family is *initially* expected to exit the FSS program. The contract term is for a period of 5 years.
Line 17j(3):	If applicable, the date to which the PHA has extended the family's FSS contract of participation.
Line 17j(4):	The number of family members in the household who have current Individual Training and Services Plans under the FSS contract of participation.
Line 17j(5):	For new FSS enrollment, indicate whether or not the family received an FSS selection preference due to participation in a related service program.
Line 17k(1):	The current dollar amount credited to the family's FSS account due to increases in earned income by the family.
Line 17k(2):	The current dollar amount of the family's FSS account based on the most recent report of account funds and activity.
Line 17k(3):	Total dollar cumulative amount, if any, of all FSS escrow disbursements ever made to the family.
Line 17m(1):	Indicate if the family fulfilled all of its obligations under the contract during the contract term, or when 30% of the family's monthly adjusted income equals or exceeds the existing housing fair market rent (FMR) for the unit size for which the family qualifies.
Line 17m(2):	Indicate if the family completed the contract and is moving to homeownership.
Line 17m(3):	Indicate why the family is not moving to homeownership.
Line 17n(1):	The date the PHA issued the Welfare to Work Voucher.
Line 17n(2):	The date the family submitted a request for lease approval (RFLA) to the PHA.
Line 17q(1):	Indicate whether or not the family withdrew from the Section 8 WtW program to buy a home.
Line 17q(2):	Identify the reasons why the family is leaving the WtW program.

OMB Approval Number 2577-0083 (expires 9/30/2003)

U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

MTW Family Report

Form HUD-50058 MTW, Family Report, applies to Moving to Work Public Housing and Section 8 programs.

Additional instructions are contained in the Form HUD-50058 MTW Instruction Booklet.

Public reporting burden for this collection of information is estimated to average 30 minutes per response in the first year, and 15 minutes per response in subsequent years. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

Send the data to the electronic address required by HUD. Questions? Phone 1-800-FON-MTCS (1-800-366-6827) or go to the MTCS Web Site at http://www.hud.gov/pih/systems/mtcs/pihmtcs.html.

Each affected agency must submit information to assist HUD in managing and monitoring HUD assisted housing programs, to protect the Government's interest and to verify the accuracy of the information received. HUD will use the information to: (1) monitor program participants' compliance with requirements, (2) provide demographic information describing tenants' characteristics, (3) participate in income matching, to detect fraud, and (4) plan for future use of the housing inventory with emphasis on the housing needs of special groups. This collection is authorized by the U.S. Housing Act of 1937 (42 U.S.C. 1437 et seq.), Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), the Fair Housing Act (42 U.S.C. 3601-19), and by the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (42 U.S.C. 1437f).

Sensitive Information: The information on these forms is sensitive and is protected by the Privacy Act. Keep the forms locked and confidential.

Acronyms

FSS	=	Family Self-Sufficiency program
HAP	=	Housing Assistance Payment
HQS	=	Housing Quality Standards
HUD	=	U.S. Department of Housing & Urban Development
INS	=	U.S. Immigration and Naturalization Services
OMB	=	U.S. Office of Management and Budget
PHA	=	Public Housing Agency
SSA	=	Social Security Administration
SSI	=	Supplemental Security Income
SSN	=	Social Security Number
TANF	=	Tenant Assistance for Needy Families
TIN	=	Taxpayer Identification Number
TTP	=	Total Tenant Payment
MTW	=	Moving to Work

Major Definitions (refer to the Form HUD-50058 MTW Instruction Booklet for a more detailed definition of each field on the Form):

Disabilities: A person with disabilities has one or more of the following: (a) a disability as defined in Section 223 of the Social Security Act, (b) a physical, mental, or emotional impairment which is expected to be of long-continued and indefinite duration, substantially impedes his or her ability to live independently, and is of such a nature that such ability could be improved by more suitable housing conditions, or (c) a developmental disability as defined in Section 102 of the Developmental Disabilities Assistance and Bill of Rights Act. Note: Include persons who have the acquired immune deficiency syndrome (AIDS) or any condition that arises from the etiologic agent for AIDS.

Effective Date of Action: Date the reported action becomes effective. The effective date cannot be earlier than the date of admission to the program.

Head of household: The one adult member of the household, designated by the family or by PHA policy as the head of household, who is wholly or partly responsible for the rent payment.

Mixed Family: A family that contains some members that are eligible for assistance and some members that are ineligible for assistance. This family may be subject to prorated rent under the Noncitizens Rule.

Portability: Renting a dwelling unit with Section 8 assistance outside the jurisdiction of the initial PHA.

Form Conventions:

1. All fields that require the entry of a date must include the 4-digit year. Enter the date in a standard format (i.e., "mm/dd/yyyy", "mm/yyyy"). Enter the year in its entirety.
2. "/" means "or" unless otherwise noted.
3. Monetary figures: enter only whole dollar amounts. Do not show cents, commas, or dollar signs.
4. Rounding: round each monetary amount up when a number is 0.50 or above; down when a number is 0.49 or below.
5. Reserved: HUD may have future directions about how to use these lines. Reserved lines are placeholders for future changes.
6. Calculation column is a scratch area where PHAs may perform manual calculations.
7. Leave blank any line(s) or item(s) that do not apply unless this Form instructs otherwise.

Head of household name	Social Security Number	Date modified (mm/dd/yyyy)

MTW Family Report

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval Number 2577-0083
Expires 9/30/2003

1. MTW Agency

1a. Agency name		1a.
1b. PHA code		1b.
1c. Program	P = Public Housing PR = Project-Based Assistance T = Tenant-Based Assistance	1c.
1d. Project number (Public Housing only)	Suffix:	1d.
1e. Building number (Public Housing only)		1e.
1f. Building entrance number (Public Housing only)		1f.
1g. Unit number (Public Housing only)		1g.

2. MTW Action

2a. Type of action — 2a.

1 = New Admission
2 = Annual Reexamination
3 = Interim Reexamination
4 = Portability Move-in
5 = Portability Move-out
6 = End Participation
7 = Other Change of Unit
8 = FSS/MTW Self-Sufficiency Only
9 = Annual Reexamination Searching
10 = Issuance of Voucher Equivalent
11 = Expiration of Voucher Equivalent
12 = Reserved
13 = Annual HQS Inspection Only
14 = Historical Adjustment
15 = Void

2b. Effective date (mm/dd/yyyy) of action	2b.
2c. Correction? (Y or N)	2c.
2d. If correction: (check primary reason) ☐ Family income correction ☐ PHA income correction ☐ Family correction (non-income) ☐ PHA correction (non-income)	
2e. Date correction transmitted (mm/dd/yyyy)	2e.
2f. Repayment agreement? (Y or N)	2f.
2g. Monthly amount of repayment	$ 2g.
2h. Date (mm/dd/yyyy) of admission to program	2h.
2i. Projected effective date (mm/dd/yyyy) of next reexamination	2i.
2j. Date (mm/dd/yyyy) of admission to Moving to Work program	2k.
2k. FSS participation now or in last year? (Y or N)	2k.
2m. MTW self-sufficiency program participation now or in last year? (Y or N)	2m.
2n. Reserved	
2p. Use if instructed by HUD	2p.
2q. PHA use only	2q.
2r. PHA use only	2r.
2s. PHA use only	2s.
2t. PHA use only	2t.
2u. PHA use only	2u.

Head of household name	Social Security Number	Date modified (mm/dd/yyyy)

	Page Heading
Head of household name:	On every page, enter the head of household's last name (line 3b), first name (line 3c) and middle initial (line 3d). Use this field to identify the head of household if the pages of the Form separate.
Social Security Number:	On every page, enter the head of household's Social Security Number (line 3n). Use this field to identify the head of household if the pages of the Form separate.
Date modified (mm/dd/yyyy):	On every page, enter the date the PHA representative fills out the Form or modifies any Form page.
1:	**MTW Agency**
Line 1a:	Name of the Public Housing Agency (PHA) that completes the family's Form HUD-50058 MTW.
Line 1b:	Five-character code composed of the 2-letter postal state code and 3-digit PHA number. The state code indicates the location of the reporting PHA and the number identifies each PHA within a particular state.
Note:	For help obtaining the PHA's identification number, contact the appropriate HUD field office, the HA Profiles Web Site within PIC or the MTCS Hotline at 1-800-FON-MTCS.
Line 1c:	Using the codes provided, indicate the housing assistance program in which the family participates.
Line 1d:	Public Housing only. The project number is composed of the 2-letter project state code, 3-digit PHA number, 3-digit project number, and 3-digit suffix (if applicable).
Line 1e:	Public Housing only. Six-character code to capture the tenant's building number.
Line 1f:	Public Housing only. Three-character code to capture the building's entrance number.
Line 1g:	Public Housing only. Ten-character code to capture the PHA designated tenant unit number.
2:	**MTW Action**
Line 2a:	Use the codes provided to report the family's type of action.
Line 2b:	Date the reported action becomes effective.
Note:	The effective date cannot be earlier than the date of admission to the program (line 2h).
Line 2c:	Allows PHAs to correct fields previously transmitted in error.
Note:	Use a correction for a minor change to a previously submitted record.
Line 2d:	Indicate the primary reason for the correction record.
Line 2e:	The actual date that the PHA completes the correction and transmits the corrected record.
Line 2f:	Indicate if the tenant has entered into a repayment agreement because the tenant previously underreported or misreported income.
Line 2g:	Per the repayment agreement, the amount the tenant pays each month.
Line 2h:	Date the PHA initially admitted the family into the regular (non-MTW) version of the program reported in line 1c.
Line 2i:	The projected effective date of the family's next reexamination.
Line 2j:	Date the PHA admitted the family to the Moving to Work program.
Line 2k:	Indicate if the family currently participates or participated in the Family Self-Sufficiency program in the past year.
Line 2m:	Indicate if the family currently participants or participated in an MTW self-sufficiency program in the past year.
Line 2n:	Reserved.
Line 2p:	HUD may instruct a particular PHA to use this line. If there are not instructions to use these lines, leave them blank.
Line 2q-2u:	PHAs may use these lines for any information they wish to collect.
Note:	HUD encourages PHAs to use lines 2q through 2u for local initiatives.

Head of household name	Social Security Number	Date modified (mm/dd/yyyy)

3. MTW Household

3a. Head of Household Member number 01

3b. Last Name & Sr, Jr. etc.	3c. First name	3d. MI	3e. Date of birth	3f. Age on effective date of action

3g. Sex	3h. Relation	3i. Citizenship	3j. Disability (Y/N)	3k. Race					3m. Ethnicity
	H					=1		=2	
						=3		=4	
						=5			

3n. Social Security Number	3p. Alien Registration Number	3q. Meeting community service requirement? (Public Housing only)
	A-	

3r. Total years of school (0-25)

3a. Member number 02

3b. Last Name & Sr, Jr. etc.	3c. First name	3d. MI	3e. Date of birth	3f. Age on effective date of action

3g. Sex	3h. Relation	3i. Citizenship	3j. Disability (Y/N)	3k. Race					3m. Ethnicity
						=1		=2	
						=3		=4	
						=5			

3n. Social Security Number	3p. Alien Registration Number	3q. Meeting community service requirement? (Public Housing only)
	A-	

3r. Total years of school (0-25)

3a. Member number 03

3b. Last Name & Sr, Jr. etc.	3c. First name	3d. MI	3e. Date of birth	3f. Age on effective date of action

3g. Sex	3h. Relation	3i. Citizenship	3j. Disability (Y/N)	3k. Race					3m. Ethnicity
						=1		=2	
						=3		=4	
						=5			

3n. Social Security Number	3p. Alien Registration Number	3q. Meeting community service requirement? (Public Housing only)
	A-	

3r. Total years of school (0-25)

3a. Member number 04

3b. Last Name & Sr, Jr. etc.	3c. First name	3d. MI	3e. Date of birth	3f. Age on effective date of action

3g. Sex	3h. Relation	3i. Citizenship	3j. Disability (Y/N)	3k. Race					3m. Ethnicity
						=1		=2	
						=3		=4	
						=5			

3n. Social Security Number	3p. Alien Registration Number	3q. Meeting community service requirement? (Public Housing only)
	A-	

3r. Total years of school (0-25)

3a. Member number 05

3b. Last Name & Sr, Jr. etc.	3c. First name	3d. MI	3e. Date of birth	3f. Age on effective date of action

3g. Sex	3h. Relation	3i. Citizenship	3j. Disability (Y/N)	3k. Race					3m. Ethnicity
						=1		=2	
						=3		=4	
						=5			

3n. Social Security Number	3p. Alien Registration Number	3q. Meeting community service requirement? (Public Housing only)
	A-	

3r. Total years of school (0-25)

Codes:

3h. Relation:	**3i. Citizenship:**	**3k. Race:**	**3m. Ethnicity:**
H = head	EC = eligible citizen	1 = White	1 = Hispanic or Latino
S = spouse	EN = eligible noncitizen	2 = Black/African American	2 = Not Hispanic or Latino
K = co-head	IN = ineligible noncitizen	3 = American Indian/Alaska Native	
F = foster child/foster adult	PV = pending verification	4 = Asian	**3q. = Community Service**
Y = other youth under 18		5 = Native Hawaiian/Other Pacific Islander	1 = yes
E = full-time student 18+			2 = no
L = live-in aide			3 = pending
A = other adult			4 = exception
			5 = n/a

Head of household name	Social Security Number	Date modified (mm/dd/yyyy)

3:	**MTW Household**
Note:	Complete for each household member.
Note:	The first family member (Member number 01) must be the head of household.
Note:	The household includes everyone who lives in the unit. Household members are used to determine unit size. The family includes all household members except live-in aides and foster children and foster adults. Family members are used to calculate subsidies and payments.
Line 3a:	The Member number identifies the individual listed on that line of the Form.
Line 3b:	Indicate the last name of each household member. Include name suffixes, such as Jr., and separate with a comma. Do not include name prefixes, such as Ms. or Mr.
Line 3c:	Indicate the first name of each household member. Do not include name prefixes, such as Ms. or Mr.
Line 3d:	Indicate the middle initial of each household member. If no middle initial, leave blank. If more than one middle initial, only enter one.
Line 3e:	Indicate the date of birth for each household member.
Line 3f:	Indicate the age in years of each household member on the effective date of action (line 2b).
Line 3g:	Indicate the gender of each household member (M=Male, F=Female).
Line 3h:	Use code at bottom of page that best categorizes the relation or role of each household member.
Line 3i:	Use code at bottom of page that indicates each household member's United States citizenship status.
Line 3j:	Indicate whether or not the household member has a disability.
Line 3k:	Use code or codes at bottom of page that the family says best indicates each household member's race. Select as many codes as appropriate.
Line 3m:	Use code at bottom of page and check the box next to the code the family says best indicates each household member's ethnicity.
Line 3n:	Enter the 9-digit Social Security Number (SSN) issued to each household member by the Social Security Administration (SSA).
Note:	If family member does not know or have a SSN, enter 999-99-9999.
Line 3p:	Enter the Alien Registration Number or A-number issued to each noncitizen household member, if applicable.
Note:	The A-number contains seven, eight or nine numerical digits preceded by the letter A, e.g., A72 735 827. If the A-number has seven digits, enter two zeros before the numbers. If the A-number has eight digits, enter one zero before the numbers. If the A-number is nine digits, enter the number without a leading zero. Do not enter the letter A in any case.
Line 3q:	Public Housing only. Use code at bottom of page to indicate whether the family member met his or her community service requirements under PHRA.
Note:	The law requires an average of eight hours of community service per month during the year.
Note:	Use '5' until the community service requirement comes into effect for your particular PHA.
Line 3r:	Enter the highest *grade* or the *full* years of formal schooling that the household member completed (0-25).
Note:	Years of schooling begin with 1st grade (do not count kindergarten or pre-school).
Line 3s:	Indicate whether additional household member information is included on an additional sheet of paper as an attachment to the Form.

Head of household name	Social Security Number	Date modified (mm/dd/yyyy)

3a. Member number	3b. Last Name & Sr, Jr. etc.	3c. First name	3d. MI	3e. Date of birth	3f. Age on effective date of action	
	3g. Sex	3h. Relation	3i. Citizenship	3j. Disability (Y/N)	3k. Race =1 =2 =3 =4 =5	3m. Ethnicity
	3n. Social Security Number	3p. Alien Registration Number A-	3q. Meeting community service requirement? (Public Housing only)			
	3r. Total years of school (0-25)					

3a. Member number	3b. Last Name & Sr, Jr. etc.	3c. First name	3d. MI	3e. Date of birth	3f. Age on effective date of action	
	3g. Sex	3h. Relation	3i. Citizenship	3j. Disability (Y/N)	3k. Race =1 =2 =3 =4 =5	3m. Ethnicity
	3n. Social Security Number	3p. Alien Registration Number A-	3q. Meeting community service requirement? (Public Housing only)			
	3r. Total years of school (0-25)					

3a. Member number	3b. Last Name & Sr, Jr. etc.	3c. First name	3d. MI	3e. Date of birth	3f. Age on effective date of action	
	3g. Sex	3h. Relation	3i. Citizenship	3j. Disability (Y/N)	3k. Race =1 =2 =3 =4 =5	3m. Ethnicity
	3n. Social Security Number	3p. Alien Registration Number A-	3q. Meeting community service requirement? (Public Housing only)			
	3r. Total years of school (0-25)					

3a. Member number	3b. Last Name & Sr, Jr. etc.	3c. First name	3d. MI	3e. Date of birth	3f. Age on effective date of action	
	3g. Sex	3h. Relation	3i. Citizenship	3j. Disability (Y/N)	3k. Race =1 =2 =3 =4 =5	3m. Ethnicity
	3n. Social Security Number	3p. Alien Registration Number A-	3q. Meeting community service requirement? (Public Housing only)			
	3r. Total years of school (0-25)					

3a. Member number	3b. Last Name & Sr, Jr. etc.	3c. First name	3d. MI	3e. Date of birth	3f. Age on effective date of action	
	3g. Sex	3h. Relation	3i. Citizenship	3j. Disability (Y/N)	3k. Race =1 =2 =3 =4 =5	3m. Ethnicity
	3n. Social Security Number	3p. Alien Registration Number A-	3q. Meeting community service requirement? (Public Housing only)			
	3r. Total years of school (0-25)					

Codes:

3h. Relation:
H = head
S = spouse
K = co-head
F = foster child/foster adult
Y = other youth under 18
E = full-time student 18+
L = live-in aide
A = other adult

3i. Citizenship:
EC = eligible citizen
EN = eligible noncitizen
IN = ineligible noncitizen
PV = pending verification

3k. Race:
1 = White
2 = Black/African American
3 = American Indian/Alaska Native
4 = Asian
5 = Native Hawaiian/Other Pacific Islander

3m. Ethnicity:
1 = Hispanic or Latino
2 = Not Hispanic or Latino

3q. = Community Service
1 = yes
2 = no
3 = pending
4 = exception
5 = n/a

3s. Continued on an additional sheet? (Y or N)	3s.

Head of household name	Social Security Number	Date modified (mm/dd/yyyy)

3:	**MTW Household**
Note:	Complete for each household member.
Note:	The first family member (Member number 01) must be the head of household.
Note:	The household includes everyone who lives in the unit. Household members are used to determine unit size. The family includes all household members except live-in aides and foster children and foster adults. Family members are used to calculate subsidies and payments.
Line 3a:	The Member number identifies the individual listed on that line of the Form.
Line 3b:	Indicate the last name of each household member. Include name suffixes, such as Jr., and separate with a comma. Do not include name prefixes, such as Ms. or Mr.
Line 3c:	Indicate the first name of each household member. Do not include name prefixes, such as Ms. or Mr.
Line 3d:	Indicate the middle initial of each household member. If no middle initial, leave blank. If more than one middle initial, only enter one.
Line 3e:	Indicate the date of birth for each household member.
Line 3f:	Indicate the age in years of each household member on the effective date of action (line 2b).
Line 3g:	Indicate the gender of each household member (M=Male, F=Female).
Line 3h:	Use code at bottom of page that best categorizes the relation or role of each household member.
Line 3i:	Use code at bottom of page that indicates each household member's United States citizenship status.
Line 3j:	Indicate whether or not the household member has a disability.
Line 3k:	Use code or codes at bottom of page that the family says best indicates each household member's race. Select as many codes as appropriate.
Line 3m:	Use code at bottom of page and check the box next to the code the family says best indicates each household member's ethnicity.
Line 3n:	Enter the 9-digit Social Security Number (SSN) issued to each household member by the Social Security Administration (SSA).
Note:	If family member does not know or have a SSN, enter 999-99-9999.
Line 3p:	Enter the Alien Registration Number or A-number issued to each noncitizen household member, if applicable.
Note:	The A-number contains seven, eight or nine numerical digits preceded by the letter A, e.g., A72 735 827. If the A-number has seven digits, enter two zeros before the numbers. If the A-number has eight digits, enter one zero before the numbers. If the A-number is nine digits, enter the number without a leading zero. Do not enter the letter A in any case.
Line 3q:	Public Housing only. Use code at bottom of page to indicate whether the family member met his or her community service requirements under PHRA.
Note:	The law requires an average of eight hours of community service per month during the year.
Note:	Use '5' until the community service requirement comes into effect for your particular PHA.
Line 3r:	Enter the highest *grade* or the *full* years of formal schooling that the household member completed (0-25).
Note:	Years of schooling begin with 1st grade (do not count kindergarten or pre-school).
Line 3s:	Indicate whether additional household member information is included on an additional sheet of paper as an attachment to the Form.

Head of household name	Social Security Number	Date modified (mm/dd/yyyy)

3t. Total number in household	3t.
3u. Family subsidy status under noncitizen rule: C = Qualified for continuation of full assistance E = Eligible for full assistance F = Eligible for full assistance pending verification of status P = Prorated assistance	3u.
3v. Eligibility effective date (mm/dd/yyyy) if qualified for continuation of full assistance (3u = C)	3v.
3w. If new head of household, former head of household's SSN	3w.

4. MTW Family Background at Admission

4a. Date (mm/dd/yyyy) entered waiting list	4a.
4b. ZIP code before admission	4b.
4c. Homeless at admission? (Y or N)	4c.
4d. Reserved	
4e. Continuously assisted under the 1937 Housing Act? (Y or N)	4e.
4f. Reserved	

5. MTW Unit To Be Occupied on Effective Date of Action

5a. Unit address

Number and street		Apt.
City	State	Zip code (+4)

5b. Is mailing address same as unit address? (Y or N) (If yes, skip to 5d)	5b.

5c. Family's mailing address

Number and street		Apt.
City	State	Zip code (+4)

5d. Number of bedrooms in unit	5d.
5e. Has the PHA identified this unit as an accessible unit? (Public Housing only) (Y or N)	5e.
5f. Has the family requested accessibility features? (Public Housing only) (Y or N) (If no, skip to next section)	5f.
5g. Has the family received requested accessibility features? (Public Housing only) ☐ a. Yes, fully ☐ b. Yes, partially ☐ c. No, not at all ☐ d. Action pending (can be checked in combination with b. or c.)	
5h. Date (mm/dd/yyyy) unit last passed HQS inspection (Tenant-Based or Project-Based Assistance only, except Homeownership)	5h.
5i. Date (mm/dd/yyyy) of last annual HQS inspection (Tenant-Based or Project-Based Assistance only, except Homeownership)	5i.
5j. Year (yyyy) unit was built (Tenant-Based or Project-Based Assistance only)	5j.
5k. Structure type (check only one) (Tenant-Based or Project-Based Assistance only) ☐ Single family detached ☐ Semi-detached ☐ Rowhouse/townhouse ☐ Low-rise ☐ High rise with elevator ☐ Manufactured home	

Note: The numbering for the following sections skips to Section 18. Form HUD-50058 MTW does not contain any sections labeled Section 6 through Section 17. Sections with these numbers were excluded to ensure that data elements on the regular Form HUD-50058 and Form HUD-50058 MTW have unique numerical labels.

Head of household name	Social Security Number	Date modified (mm/dd/yyyy)

3:	**MTW Household (continued)**
Line 3t:	The total number of people in the household.
Note:	Count all persons, include foster children or adults, live-in aides, and other unrelated individuals (who reside with the family as part of the household). Also include persons who are members of the household but temporarily absent from the home.
Line 3u:	Code that indicates the housing assistance eligibility for family members based on the Noncitizens Rule. The Noncitizens Rule allows PHAs to provide financial assistance to U.S. citizens, nationals, and non-U.S. citizens with eligible immigration status.
Note:	If the family's status under the Noncitizens Rule is prorated assistance (3u=P), the family should fill out the applicable prorated rent calculation when determining rent burden.
Line 3v:	Date the family originally qualified for the continuation of full assistance (3u=C).
Line 3w:	If the designated head of household changed due to discontinued occupancy or other cause such as death, marriage, or remarriage and there are family members who remain in the household, enter the *former* head of household's Social Security Number (SSN).
4:	**MTW Background at Admission**
Line 4a:	Date the PHA placed the family on the waiting list for the program under which they currently receive housing assistance.
Note:	This date must not be later than effective date of action (line 2b).
Line 4b:	The 5-digit ZIP code (+4, if applicable) where the family lived before admission to an assistance program.
Line 4c:	Indicate whether or not the family was homeless at the time the PHA admitted the family to a housing assistance program.
Line 4d:	Reserved.
Line 4e:	Indicate whether or not the family is continuously assisted under or currently enrolled in any 1937 Housing Act program at the time of admission.
Line 4f:	Reserved.
5:	**MTW Unit to be Occupied on Effective Date of Action**
Line 5a:	The complete address of the housing unit that the household occupies on the effective date of action (line 2b).
Line 5b:	Indicate whether the mailing address is different from the unit address.
Line 5c:	The complete address where the family receives mail, if other than the unit address indicated in line 5a.
Note:	Leave this field blank if the mailing address is the same as the unit address.
Line 5d:	Total number of bedrooms in the unit that the household will occupy on the effective date of action (line 2b).
Line 5e:	Public Housing only. Indicate whether or not the unit that the family occupies on the effective date of action (line 2b) is a PHA designated handicapped accessible unit.
Line 5f:	Public Housing only. Indicate whether or not the family requested disability amenities or accessibility features.
Line 5g:	Public Housing only. Indicate the status of the family's request for disability amenities and/or accessibility features (line 5f) on the effective date of action (line 2b).
Line 5h:	Tenant-Based or Project-Based Assistance only, except Homeownership. The last date the unit passed a full housing quality standards (HQS) inspection.
Line 5i:	Tenant-Based or Project-Based Assistance only, except Homeownership. The last date a PHA inspector performed a full annual housing quality standards (HQS) inspection of the unit that the household occupies.
Note:	This date may be different from the date unit last passed HQS inspection (line 5h) if the unit failed the last HQS inspection.
Line 5j:	Tenant-Based or Project-Based Assistance only. Indicate the year that the unit was built.
Note:	This date is found on the request for tenancy approval form.
Line 5k:	Section 8 only. Indicate the building structure type.
Note:	See the Instruction Booklet for descriptions of each housing type.
Note:	The numbering for the following sections skips to Section 18. Form HUD-50058 MTW does not contain any sections labeled Section 6 through Section 17. Sections with these numbers were excluded to ensure that data elements on the regular Form HUD-50058 and Form HUD-50058 MTW have unique numerical labels.

Head of household name	Social Security Number	Date modified (mm/dd/yyyy)

18. MTW Asset Income

18a. Family member name	No.	18b. Type of asset (PHA use)	18c. Calculation (PHA use)	18d. Cash value of asset	18e. Anticipated Income
				$	$
				$	$
				$	$
				$	$
				$	$
				$	$
				$	$
				$	$
18f, 18g Column totals				$ 18f.	$ 18g.
18h. Passbook rate (written as decimal)					0. 18h.
18i. Imputed asset income: 18f X 18h (if 18f is $5000 or less, put 0)					$ 18i.
18j. Final asset income: larger of 18g or 18i					$ 18j.

19. MTW Income

19a. Family member name	No.	19b. Income code	19c. Calculation (PHA use)	19d. Dollars per year	19e. Income exclusions	19f. Income after exclusions (19d minus 19e)
				$	$	$
				$	$	$
				$	$	$
				$	$	$
				$	$	$
				$	$	$
				$	$	$
				$	$	$
				$	$	$
				$	$	$
				$	$	$
				$	$	$
				$	$	$
				$	$	$
19g, 19h. Column totals				$ 19g.		$ 19h.
19i. Total annual income: 18j + 19h						$ 19i.
19j. Deductions					$ 19j.	
19k. Adjusted annual income: 19i minus 19j						$ 19k.

19b. Income Code

Wages:
B = own business
F = federal wage
HA = PHA wage
M = military pay
W = other wage

Welfare:
G = general assistance
IW = annual imputed welfare income
T = TANF assistance

SS/SSI/Pensions:
P = pension
S = SSI
SS = Social Security

Other Income Sources:
C = child support
E = medical reimbursement
I = Indian trust/per capita
N = other nonwage sources
U = unemployment benefits
X = MTW income

Head of household name	Social Security Number	Date modified (mm/dd/yyyy)

18:	**MTW Assets**
Note:	Use a separate line for each family member and asset type.
Line 18a:	The name of each family member in the household that has assets and their Member number (line(s) 3a) that corresponds to the asset information reported.
Line 18b:	List any asset that has a dollar value or provides a source of income to the person listed in column 18a.
Note:	See the Form HUD 50058 MTW Instruction Booklet for an explanation of allowable assets.
Line 18c:	Use this column to perform asset calculations.
Line 18d:	Estimated, known or calculated dollar value of the asset listed.
Line 18e:	Total amount of income the family member expects to receive in the next 12-month period from the asset listed.
Line 18f:	Total of the values listed in column 18d.
Line 18g:	Total of the values listed in column 18e.
Line 18h:	Enter the passbook rate as a decimal.
Note:	The HUD field office determines the Passbook rate of interest for the project locality based on the average interest rate received on a Passbook Savings Account at several banks in the local area.
Line 18i:	Imputed income from assets based on the total dollar value of the asset listed and the Passbook rate of interest.
Note:	If the total cash value of assets is $5,000 or less, enter 0.
Line 18j:	Total amount of household income derived from assets.
19:	**MTW Income**
Note:	If the family members do not have any income from sources other than assets and do not expect any other income in the next 12-month period, leave 19a through 19h blank. Fill in total annual income (line 19i), which would be the total of the asset income.
Line 19a:	The name of each family member in the household that has income and their Member number (line(s) 3a) that corresponds to the income information reported.
Line 19b:	Use one or two letter code at bottom of page that represents the type of income for a family member.
Note:	See the Form HUD-50058 MTW Instruction Booklet for a detailed description of each income code.
Line 19c:	Use this column to perform income calculations.
Line 19d:	Annual income amount the family member earns from the income source(s) listed.
Note:	See the Form HUD-50058 MTW Instruction Booklet for a description of each income source.
Line 19e:	Income excluded from annual income calculations.
Note:	Includes income disallowance and individual savings accounts (ISA) for Public Housing.
Note:	See the Form HUD-50058 MTW Instruction Booklet for a description of each income exclusion.
Line 19f:	Income minus exclusions. Take dollars per year (line 19d) minus income exclusions (line 19e).
Line 19g:	The total dollar amounts listed in column 19d.
Line 19h:	The total dollar amounts listed in column 19f.
Line 19i:	The family's total annual income. Add the final asset income (line 18j) and the total income after income exclusions (line 19h).
Line 19j.	Total amount of money that is deducted from a family's income for rent determination purposes.
Line 19k:	The family's adjusted annual income. Take total annual income (line 19i) minus deductions (line 19j).

Head of household name	Social Security Number	Date modified (mm/dd/yyyy)

20. MTW Public Housing

20a. Type of rent	☐ Income-based ☐ Flat	
20b. Tenant rent	$	20b.
20c. Mixed family tenant rent	$	20c.
20d. Utility allowance/estimate	$	20d.
20e. Is this a ceiling rent? (Y or N)		20f.
20f. Reserved		

21. MTW Tenant-Based or Project-Based Assistance

21a. Indicate if flat subsidy or income-based subsidy	☐ Income-based ☐ Flat	21a.
21b. Number of bedrooms on voucher equivalent		21b.
21c. Is family now moving to this unit? (Y or N)		21c.
21d. Did family move into your PHA jurisdiction under portability? (Y or N) (if no, skip to 21g)		21d.
21e. Cost billed per month (put 0 if absorbed)		21e.
21f. PHA code billed		21f.
21g. Owner name		21g.
21h. Owner TIN/SSN		21h.
21i. Rent to owner	$	21i.
21j. Utility allowance/estimate	$	21j.
21k. Gross rent of unit: 21i + 21j (or Space Rent)	$	21k.
21m. Flat subsidy amount, if any	$	21m.
21n. Tenant rent to owner	$	21n.
21p. Mixed family tenant rent to owner	$	21p.
21q. Is this a ceiling rent? (Y or N)		21q.
21r. Reserved		

Head of household name	Social Security Number	Date modified (mm/dd/yyyy)

20:	**MTW Public Housing**
Note:	Complete if the family's program type is MTW Public Housing (line 1c=P) and the type of action is New Admission (2a=1), Annual Reexamination (2a=2), Interim Reexamination (2a=3), or Other Change of Unit (2a=7).
Line 20a:	Indicate whether the family pays an income based rent or a flat rent.
Note:	Flat rent is not set by the family's income.
Line 20b:	The rent amount the family pays to the owner.
Line 20c:	The rent amount the mixed family pays to the owner.
Line 20d:	If the payment does not include all utilities, indicate the monthly allowance amount for tenant supplied utilities that applies to the family occupied unit or an estimate of the utility costs.
Note:	If the tenant rent includes all utilities, enter 0.
Line 20e:	Indicate if the family is paying the ceiling rent for this unit.
Line 20f:	Reserved.
21:	**MTW Tenant-Based or Project-Based Assistance**
Note:	Complete if the family's program type is (1c=PR) for Project-Based Assistance or (1c=T) for Tenant-Based Assistance and type of action is New Admission (2a=1), Annual Reexamination (2a=2), Interim Reexamination (2a=3), Portability Move-in (2a=4), or Other Change of Unit (2a=7).
Line 21a:	Indicate whether the family pays an income based subsidy or a flat subsidy.
Note:	Flat subsidies are not set by the family's income.
Line 21b:	Unit size (number of bedrooms) listed on the family's voucher equivalent.
Line 21c:	Indicate if the family is now moving into the unit.
Line 21d:	Indicate whether or not the household will move or has moved into the PHA's jurisdiction under portability.
Line 21e:	Monthly amount billed to the initial PHA for the family's housing assistance payment (HAP), on-going administrative fee, and any utility reimbursement to the family.
Note:	Enter 0 if the family was absorbed by the receiving PHA.
Line 21f:	The initial PHA's 2-letter state code and 3-digit identification number.
Note:	For help obtaining the initial PHA's identification number, contact the appropriate HUD field office, the HA Profiles Web Site within PIC or the MTCS Hotline at 1-800-FON-MTCS.
Line 21g:	The unit owner's legal name.
Line 21h:	Tax identification number (TIN) or Social Security Number (SSN) of the legal unit owner.
Line 21i:	Total monthly rent payable to the unit owner under the lease for the contract unit.
Line 21j:	If the payment does not include all utilities, indicate the monthly allowance amount for tenant supplied utilities that apply to the family occupied unit or an estimate of utility costs.
Note:	If the payment includes all utilities, enter 0.
Line 21k:	Gross rent of unit or space rent. Add rent to owner (line 21i) to the utility allowance (line 21j).
Line 21m:	Amount of monthly flat subsidy that the PHA provides to unit owner, if any (line 21a=F).
Line 21n:	Rent amount the family pays to the owner.
Line 21p:	Rent amount the mixed family pays to the owner.
Line 21q.	Indicate if the family is paying the ceiling rent for this unit.
Line 21r:	Reserved.

Head of household name	Social Security Number	Date modified (mm/dd/yyyy)

22. MTW Homeownership

22a.	Indicate if flat subsidy or income-based subsidy ☐ Income-based ☐ Flat		22a.		
22b.	Is family now moving to this home? (Y or N)		22b.		
22c.	Date (mm/dd/yyyy) of initial HQS inspection		22c.		
22d.	Did family move into your PHA jurisdiction under portability? (Y or N) (if no, skip to 22g)		22d.		
22e.	Cost billed per month (put 0 if absorbed)		22e.		
22f.	PHA code billed		22f.		
22g.	Monthly homeownership payment (PITI & MIP if applicable)	$	22g.		
22h.	Utility allowance/estimate	$	22h.		
22i.	Other monthly allowance(s), if any	$	22i.		
22j.	Gross homeownership expense	$	22j.		
22k.	Flat subsidy amount	$	22k.		
22m.	Total family share			$	22m.
22n.	Mixed family total family share			$	22n.
22p.	Is this a ceiling family share? (Y or N)		22p.		
22q.	Reserved				

Head of household name	Social Security Number	Date modified (mm/dd/yyyy)

22:	**MTW Homeownership**
Note:	Complete if program type is Homeownership (line 1c=PR) or (line 1c=T) and type of action is New Admission (2a=1), Annual Reexamination (2a=2), Interim Reexamination (2a=3), Portability Move-in (2a=4), or Other Change of Unit (2a=7).
Line 22a:	Indicate if flat subsidy or income-based subsidy.
Note:	Flat subsidies are not set by the family's income.
Line 22b:	Indicate if the family is now moving into the home.
Line 22c:	Date of the initial housing quality standards (HQS) inspection.
Line 22d:	Indicate whether or not the household will move or has moved into the PHA's jurisdiction under portability.
Line 22e:	Monthly amount billed to the initial PHA for the family's housing assistance payment (HAP) amount, on-going administrative fee, and any utility reimbursement to the family.
Note:	Enter 0 if the family was absorbed by the receiving PHA.
Line 22f:	The initial PHA's 2-letter state code and 3-digit identification number.
Note:	For help obtaining the initial PHA's identification number, contact the appropriate HUD field office, the HA Profiles Web Site within PIC or the MTCS Hotline at 1-800-FON-MTCS.
Line 22g:	The monthly homeownership cost.
Note:	Includes principal and interest on initial mortgage debt, taxes and insurance (PITI) and any mortgage insurance premium (MIP), if applicable.
Line 22h:	The PHA's utility allowance for the unit.
Note:	If the PHA does not provide a utility allowance, enter an estimate of utility costs.
Line 22i:	The amount of PHA's allowances for the homeowner's monthly routine maintenance costs, major home repairs and maintenance, and co-op/condominium assessments.
Line 22j:	Calculation of tenant's total cost of homeownership. Sum of 22g through 22i.
Line 22k:	Total monthly amount of subsidy the PHA contributes toward homeowners if a flat subsidy is provided to the family.
Line 22m.	Total amount the family contributes toward homeownership.
Line 22n:	Indicate the mixed family total family contribution based on the proration calculation.
Line 22p:	Indicate if the family is paying the ceiling payment for this unit.
Line 22q:	Reserved.

Head of household name	Social Security Number	Date modified (mm/dd/yyyy)

23. Family Self Sufficiency (FSS)/MTW Self Sufficiency Addendum

23a. Participate in special program? (check no more than one) ☐ FSS ☐ MTW self-sufficiency

23b. Report category (check no more than one) ☐ Enrollment ☐ Progress ☐ Exit

23c. Effective date (mm/dd/yyyy) of self-sufficiency action — 23c.

23d. PHA code of PHA administering contract — 23d.

23e. Reserved

23f. Reserved

23g. Reserved

23h. General Information

(1) Current employment status of head of household. Check the box to indicate the head of household's employment status at the time Addendum completed.
☐ Full-time (32 hours per week or more) ☐ Part-time ☐ Not employed

(2) Date (mm/dd/yyyy) current employment began — 23h(2).

(3) Benefits in current employment: (check all that apply) ☐ Health ☐ Retirement account ☐ Other

(4) Reserved — 23h(4).

(5) Assistance received by the family: (check all that apply)
☐ TANF Income Assistance? ☐ General Assistance? ☐ Food Stamps?
☐ Medicaid/Children's Health Insurance Program? ☐ Earned Income Tax Credit?

(6) Number of children receiving child care services — 23h(6).

23i. Family services table

	(1) Need (Y or N)	(2) Needs Met Through Program (Y or N)	(3) Service Provider
Education/Training			
GED			
High school			
Post secondary			
Vocational/job training			
Job search/job placement			
Job retention			
Transportation			
Health services			
Alcohol and other drug abuse prevention services			
Mentoring			
Homeownership counseling			
Individual Development Account (IDA)			
Child care			
None			

23i (3) Service Provider Codes

P = PHA
T = TANF agency
D = DOL grantee
V = Voluntary organization
PR = For profit entity
N = Nonprofit agency
E = Employer
C = Community college

Head of household name	Social Security Number	Date modified (mm/dd/yyyy)

23:	**Family Self-Sufficiency (FSS)/MTW Self Sufficiency Addendum**
Note:	Complete this section if the family participates in the Family Self-Sufficiency or an MTW self-sufficiency program.
Line 23a:	Identify if the family participates in a Family Self-Sufficiency (FSS) program or an MTW self-sufficiency program.
Line 23b:	Check one category to indicate the purpose of the FSS Addendum.
Line 23c:	The effective date of the self-sufficiency action.
Line 23d:	The PHA code associated with the PHA that provides the self-sufficiency services.
Note:	For help obtaining the PHA's identification number, contact the appropriate HUD field office, the HA Profiles Web Site within PIC or the MTCS Hotline at 1-800-FON-MTCS.
Line 23e:	Reserved.
Line 23f:	Reserved.
Line 23g:	Reserved.
Line 23h.(1):	Indicate the head of household 's current employment status.
Line 23h.(2):	The date the head of household began his/her current job.
Line 23h.(3):	Indicate the head of household's current employment benefits. Check all that apply.
Line 23h.(4):	Reserved.
Line 23h.(5):	Indicate whether or not the family receives additional assistance, such as food stamps, Medicaid, TANF assistance, or the earned income tax credit.
Line 23h.(6):	Indicate the number of children in the household who receive childcare services.
Line 23i.(1):	Indicate whether or not the PHA identified individual training and service needs of the family members.
Line 23i.(2):	If the PHA identified certain needs for family members, indicate whether or not the program meets these needs.
Line 23i.(3):	Using the codes provided at bottom of page, indicate the type of service provider that meets the participant's need.

Head of household name	Social Security Number	Date modified (mm/dd/yyyy)

23j.	**Self-Sufficiency Contract Information**		
	(1) Initial start date (mm/yyyy) of contract of participation		23j(1).
	(2) Initial end date (mm/yyyy) of contract of participation		23j(2).
	(3) Contract date (mm/yyyy) extended to (if applicable)		23j(3).
	(4) Number of family members with Individual Training and Services Plan		23j(4).
	(5) Did the family receive selection preference because of a related service program participation? (Y or N)		23j(5).
23k.	**Escrow Account Information**		
	(1) Current account monthly credit	$	23k(1).
	(2) Current account balance	$	23k(2).
	(3) Account amount disbursed to the family (cumulative as of end of reporting period)	$	23k(3).
23m.	**Exit Information (complete only for Exit Report)**		
	(1) Did family complete FSS contract of participation or MTW self-sufficiency program? (Y or N)		
	(2) If (1) is Yes, did family move to homeownership? (Y or N)		
	(3) If (1) is No, reason for exit: ☐ Left voluntarily ☐ Asked to leave program ☐ Portability move-out ☐ Left because essential service was unavailable ☐ Contract expired but family did not fulfill obligations		

Head of household name	Social Security Number	Date modified (mm/dd/yyyy)

23:	Family Self-Sufficiency (FSS)/MTW Self Sufficiency Addendum (continued)
Line 23j.(1):	Enrollment report only. The effective date of the family's contract of participation; the date the family *initially* enrolled in the self-sufficiency program.
Line 23j.(2):	Enrollment report only. The expiration date of the family's contract of participation; the date the family is *initially* expected to exit the self-sufficiency program.
Line 23j.(3):	If applicable, the date to which the PHA has extended the family's contract of participation.
Line 23j.(4):	The number of family members in the household who have current Individual Training and Services Plans under the contract of participation.
Line 23j.(5):	For new enrollment, indicate whether or not the family received a selection preference due to participation in a related service program.
Line 23k.(1):	The current dollar amount credited to the family's account due to increases in earned income by the family.
Line 23k.(2):	The current dollar amount of the family's account based on the most recent report of account funds and activity.
Line 23k.(3):	Total dollar cumulative amount, if any, of all escrow disbursements ever made to the family.
Line 23m.(1):	Indicate if the family fulfilled all of its obligations under the contract during the contract term.
Line 23m.(2):	Indicate if the family completed the contract and is moving to homeownership.
Line 23m.(3):	Indicate why the family did not complete its FSS or MTW self-sufficiency contract

[FR Doc. 03–17992 Filed 7–15–03; 8:45 am]
BILLING CODE 4210–33–C

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Intent To Reestablish the Joint Fire Science Program Stakeholder Advisory Group Charter and Call for Non-Federal Nominations

AGENCY: Office of the Assistant Secretary for Policy Management and Budget, Interior.

ACTION: Notice and call for nominations.

SUMMARY: The Secretary of the Interior and the Secretary of Agriculture intend to reestablish the Charter for the Joint Fire Science Program Stakeholder Advisory Group. This notice solicits nominations for new members for the Group. The Group advises the Secretaries through the Governing Board of the Joint Fire Science Program concerning research priorities on fuels issues, emergency stabilization and rehabilitation practices, restoration of fire-adapted ecosystems, and fire management procedures on lands administered by Interior and Agriculture. The Joint Fire Science Program provides scientific information and tools to support the wildland fire management program.

DATES: Nominations should be submitted to the address listed below no later than August 15, 2003.

ADDRESSES: Submit all nominations to Dr. Bob Clark, Joint Fire Science Program Manager, National Interagency Fire Center, 3833 S. Development Ave., Boise, Idaho 83705.

FOR FURTHER INFORMATION CONTACT: Dr. Bob Clark, Joint Fire Science Program Manager, National Interagency Fire Center, 3833 S. Development Ave., Boise, Idaho 83705, (208) 387–5349. Internet: *Bob_Clark@nifc.blm.gov.*

SUPPLEMENTARY INFORMATION: The Joint Fire Science Program was established in 1998 to provide scientific information and tools in support of the wildland fire management program. Since its inauguration the Program has funded 178 projects. The results of completed projects are made available to field offices to provide guidance for wildland fire management, and fuels treatment and rehabilitation project planning. All program projects require scientist-manager partnerships along with a strong emphasis on technology transfer.

The Stakeholder Advisory Group will consist of not more than 15 members, 5 Federal and 10 nonfederal. This call for nominations will establish the nonfederal membership on the Group. Group membership will be balanced in terms of categories of interest and geographic regions represented. Any individual or organization may nominate one or more persons to serve on the Joint Fire Science Program Stakeholder Advisory Group. Individuals may also nominate themselves for Group membership.

All nomination letters should include the name, address, profession, relevant biographic data, and reference sources for each nominee, and should be sent to the address in the **ADDRESSES** section. Letters of support should be from interests or groups that nominees claim to represent. This material will be used to evaluate nominees' expertise and qualifications for advising the Secretaries on matters pertaining to research into wildland fuels problems, implementation of strategies and solutions for managing increasing fuel loadings, and post fire rehabilitation on federally administered wildlands. Nominations may be made for the following categories of interest:

Wildland fire suppression and operations
Prescribed fire management
Air quality and smoke management
Burned area emergency stabilization and rehabilitation
Fire ecology and ecosystem restoration
Forest and woodland management
Rangeland management
Wildlife Management
Soil and water management
Conservation
Social science and economics
Modeling and remote sensing
Tribal government
State or local agencies
Public at large

Each Stakeholder Advisory Group Member will be appointed to serve a 2-year term. Terms will be staggered to maintain continuity on the Group. Initially, appointment terms for half of the non-federal members will be for three years. At the end of the member's term, the member may continue to serve at the discretion of the Secretary of the Interior and Secretary of Agriculture for an interim period, which will not exceed 120 days, in order to ensure continuity on the Stakeholder Advisory Group.

Members will serve without salary, but non-federal members will be reimbursed for travel and per diem expenses at current rates for Government employees. The Group will meet at least twice annually. Additional meetings may be called in connection with special needs for advice. The Department of the Interior's Director, Office of Wildland Fire Coordination will be the Designated Federal Officer who will call meetings of the Group. This notice is published in accordance with Section 9 (a)(2) of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C. App.).

Dated: July 8, 2003.

P. Lynn Scarlett,

Assistant Secretary—Policy, Management and Budget, Department of the Interior.

[FR Doc. 03–17940 Filed 7–15–03; 8:45 am]
BILLING CODE 4310–J4–P

DEPARTMENT OF THE INTERIOR

Geological Survey

Technology Transfer Act of 1986

AGENCY: Geological Survey, Department of Interior.

ACTION: Notice of proposed Cooperative Research and Development Agreement (CRADA) negotiations.

SUMMARY: The United States Geological Survey (USGS) is planning to enter into a Cooperative Research and Development Agreement (CRADA) with Maps a la carte, Inc., of North Chelmsford, Massachusetts. The purpose of the CRADA is to develop and document Open Source software tools for use by potential The National Map partners when serving digital geographic data and metadata in The National Map. Any other organization interested in pursuing a partnership for similar kinds of activities should contact the USGS.

ADDRESSES: Inquiries may be addressed to the Branch of Business Development, U.S. Geological Survey, 500 National Center, 12201 Sunrise Valley Drive, Reston, Virginia 20192; Telephone (703) 648–4621, facsimile (703) 648–4706; Internet *bduff@usgs.gov*.

FOR FURTHER INFORMATION CONTACT: Beth L. Duff, address above.

SUPPLEMENTARY INFORMATION: This notice is to meet the USGS requirement stipulated in the Survey Manual.

Dated: June 18, 2003.

Robert A. Lidwin,

Geography, Chief of Staff.

[FR Doc. 03–17964 Filed 7–15–03; 8:45 am]
BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1310–01; WYW128154]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

Pursuant to the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), a petition for reinstatement of oil and gas lease WYW128154 for lands in Hot Springs County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $166 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW128154 effective January 1, 2003, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Pamela J. Lewis,

Chief, Fluid Minerals Adjudication.

[FR Doc. 03–17930 Filed 7–15–03; 8:45 am]

BILLING CODE 4310–22–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–933–1430–ET; GPO–03–0004; IDI–15260, IDI–15256]

Public Land Order No. 7574; Partial Revocation of Secretarial Orders Dated November 17, 1902 and March 18, 1908; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes two Secretarial Orders insofar as they affect 600 acres of public lands withdrawn for the Bureau of Reclamation's Minidoka Reclamation Project. The lands are no longer needed for reclamation purposes. This order makes the lands available for conveyance under the Recreation and Public Purposes Act.

EFFECTIVE DATE: August 15, 2003.

FOR FURTHER INFORMATION CONTACT: Jackie Simmons, BLM Idaho State Office, 1387 S. Vinnell Way, Boise, Idaho 83709, 208–373–3867.

Order

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. The Secretarial Orders dated November 17, 1902 and March 18, 1908, which withdrew lands for the Bureau of Reclamation's Minidoka Reclamation Project, are hereby revoked insofar as they affect the following described lands:

Boise Meridian

T. 8 S., R. 24 E.,
Sec. 34, NW¼SW¼ and S½SE¼;
Sec. 35, E½ and SW¼.

The area described aggregates 600.00 acres in Minidoka County.

2. The lands described in paragraph 1 are hereby made available for conveyance under the Recreation and Public Purposes Act, as amended, 43 U.S.C. 869 (1994).

Dated: June 23, 2003.

Rebecca W. Watson,

Assistant Secretary—Land and Minerals Management.

[FR Doc. 03–17936 Filed 7–15–03; 8:45 am]

BILLING CODE 4310–66–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–960–1430–ET; MIES–45076]

Public Land Order No. 7573; Partial Revocation of Executive Order Dated September 22, 1885; Michigan

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes an Executive Order insofar as it affects 0.62 acre of public land reserved for use by the U.S. Army Corps of Engineers for public purposes in connection with the improvement of a navigational channel in the Saint Mary's River. The reservation is no longer needed on this portion.

EFFECTIVE DATE: July 16, 2003.

FOR FURTHER INFORMATION CONTACT: Ed Ruda, Natural Resource Specialist, BLM Eastern States Office, 7450 Boston Boulevard, Springfield, Virginia 22153, 703–440–1671.

SUPPLEMENTARY INFORMATION: This is a record clearing action only. The land has been determined to be unsuitable for return to public domain status and has been reported as excess property to the General Services Administration and conveyed out of Federal ownership.

Order

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

The Executive Order dated September 22, 1885, which reserved certain islands in the St. Mary's River for public purposes in connection with the improvement of Hay Lake Channel, is hereby revoked insofar as it affects the following described land:

Michigan Meridian

T. 47 N., R. 1 E., Commencing at the SW Corner of Section 9; Thence along W line of Section 9, N 1° 44′ 56″ W, 2,625.27 feet to W ¼ corner of Section 9; N 89° 29′ 14″ E, 1,963.15 feet; S 68° 17′ 44″ E, 388.00 feet; N 22° 39′ 16″ E, 2,177.60 feet; S 45° 43′ 16″ E, 495.75 feet; S 59° 12′ 29″ E, 1,122.45 feet; S 50° 42′ 52″ E, 186.04 feet; S 68° 25′ 41″ E, 96.51 feet; N 71° 58′ 45″ E, 189.05 feet; S 38° 58′ 36″ E, 79.16 feet; N 61° 48′ 40″ E, 4.84 feet to the Point of Beginning; Thence S 61° 48′ 40″ W, 148.31 feet; S 26° 22′ 40″ E, 183.44 feet; N 63° 17′ 56″ E, 147.34 feet; Thence Northwesterly to the Point of Beginning.

The area described contains 0.62 acre in Chippewa County.

Dated: June 23, 2003.

Rebecca W. Watson,

Assistant Secretary—Land and Minerals Management.

[FR Doc. 03–17928 Filed 7–15–03; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–958–1430–ET; HAG–03–0087; OR–16756]

Public Land Order No. 7572; Extension of Public Land Order No. 6476; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order extends Public Land Order No. 6476 for an additional 20-year period. This extension is necessary to continue the protection of the Wheeler Creek Research Natural Area.

EFFECTIVE DATE: October 5, 2003.

FOR FURTHER INFORMATION CONTACT: Roger Mendenhall, Siskiyou National Forest, PO Box 440, Grants Pass, Oregon

97528, 541–471–6521, or Chuck Roy, Bureau of Land Management, PO Box 2965, Portland Oregon 97208, 503–808–6189.

Order

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Public Land Order No. 6476, (48 FR 45395, October 5, 1983) which withdrew 334 acres of National Forest System land in the Siskiyou National Forest from the United States mining laws for the protection of the Wheeler Creek Research Natural Area, is hereby extended for an additional 20-year period.

2. Public Land Order No. 6476 will expire on October 4, 2023, unless as a result of a review conducted prior to the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1994), the Secretary determines that the withdrawal be extended.

Dated: June 23, 2003.

Rebecca W. Watson,

Assistant Secretary—Land and Minerals Management.

[FR Doc. 03–17929 Filed 7–15–03; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–930–1430–ET; CACA 7231, CACA 7232, CACA 7234, CACA 7235, CACA 7236, and CACA 7239]

Withdrawal of Public Lands for the Bureau of Reclamation's Colorado River Storage and Yuma Project; California; Corrections

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction.

SUMMARY: This action corrects the errors in the legal descriptions of several withdrawal and revocation orders affecting portions of the Coachella and All American Canals and ancillary facilities.

FOR FURTHER INFORMATION CONTACT: Duane Marti, Bureau of Land Management, 916–978–4675, or Kimber Kirkland, Bureau of Reclamation, 928–343–8153.

SUPPLEMENTARY INFORMATION: The corrections made by this notice are subject to valid existing rights. All legal descriptions are San Bernardino Meridian, California.

1. This action corrects errors in the legal descriptions contained in (a) The Secretary of the Interior's Order dated March 18, 1913, which reads ''T. 17 S., R. 16 E., W½ Sec. 1; all secs. 2 and 3; lots 3, 9, 13, 14, NW¼SE¼ sec. 10; N½NE¼ and NW¼ sec. 11; lot 5, Sec. 16. Tracts 40, 46, 47, 54, 55, 74.'' is hereby corrected to read ''T. 17 S., R. 16 E., W½ Sec. 1; all secs. 2 and 3; lots 3, 9, 13, 14, sec. 10; N½NE¼ and NW¼ sec. 11; lot 5, sec. 16. Tracts 40, 46, 47, 54, 55, 74.'' and (b) Bureau of Land Management's Order Opening Public Lands Restored from the Colorado River and Yuma Projects, which is dated July 13, 1956, which reads ''T. 17 S., R. 16 E., sec. 10, lot 13, and NW¼SE¼; sec. 11, N½NE¼.'' is hereby corrected to read ''T. 17 S., R. 16 E., sec. 10, lot 13, and sec. 11, N½NE¼.''

2. This action corrects errors in the legal descriptions contained in Bureau of Reclamations' Order of Revocation, Yuma Project, California, which is dated August 12, 1947, and concurred in by Bureau of Land Management on September 15, 1947, as follows: for T. 10 S., R. 15 E., which reads ''secs. 1 to 30, incl., and 33 to 36, incl., all.'' is hereby corrected to read ''secs. 1 to 29, inclusive; sec. 30, lots 3 to 5, inclusive, E½, E½W½; and secs. 33 to 36, inclusive.''

3. This action corrects errors in the legal descriptions contained in Bureau of Reclamation's Order of Revocation, Colorado River Storage Project, California, which is dated August 14, 1947, and concurred in by Bureau of Land Management on September 15, 1947, as follows: for T. 9 S., R. 13 E, which reads ''secs. 1 to 6, incl., 9 to 15, incl., 19, 24, and 28 to 35, incl. all.'' is hereby corrected to read ''secs. 1 to 5, inclusive, sec. 6, lots 3 to 8, inclusive, S½NE¼, SE¼NW¼, E½SW¼, SE¼; secs. 9 to 15, inclusive, 19, 24, and 28 to 35, inclusive.''

4. This action corrects errors in the legal descriptions contained in Bureau of Reclamation's Order of Revocation, Yuma Project, California, which is dated October 14, 1954, and concurred in by Bureau of Land Management on August 1, 1956, as follows: ''T. 6 S., R. 9 E., sec. 18, lots 1 and 2, E½, E½W½; secs. 19 and 20, all;'' is hereby corrected to read ''T. 6 S., R. 9 E., sec. 18, lot 1, NE¼, E½W½, SE¼; sec. 19, all; sec. 20, NE¼, N½NW¼, and SE¼;'

5. This action corrects errors in the legal descriptions contained in Bureau of Reclamation's Order of Revocation, Colorado River Storage and Yuma Projects, California, which is dated December 4, 1953, and concurred in by Bureau of Land Management on August 24, 1956, as follows:

(a) Under T. 7 S., R. 10 E., ''secs. 7, 15 to 23, incl., 25 to 27, incl., all.'' is hereby corrected to read ''secs. 7, 15 to 21, incl., sec. 22, SW¼SW¼NE¼, N½NW¼NW¼, N½NW¼, S½NW¼, SW¼, W½SE¼, NW¼NE¼SE¼, S½N½SE¼, S½SE¼; sec. 23, all; sec. 25, all; sec. 26, N½NE¼, SE¼NE¼, W½NW¼NW¼, SW¼NW¼, S½SE¼NW¼, E½SW¼, SW¼NW¼SE¼, W½SW¼SE¼, SE¼SW¼SE¼; sec. 27, all.''

(b) Under T. 7 S., R. 11 E., ''secs. 27, 28, and 30 to 36, incl., all'' is hereby corrected to read ''secs. 27, 28, 30, 31, 33, 35, and 36, all.''

(c) Under T. 8 S., R. 11 E., ''secs. 1, 2, 6, 12, and 13, all'' is hereby corrected to read ''sec. 1, sec. 2, W½W½N½, S½; sec. 6, W½N½, S½; secs. 12 and 13.''

(d) Under T. 8 S., R. 12 E., ''secs. 5 to 9, incl., 16 to 22, incl., 24 to 30, incl., and 32 to 36, incl., all.'' is hereby corrected to ''sec. 5; sec. 6, SW¼, W½SE¼; sec. 7; sec. 8, NE¼, E½NW¼, NE¼SW¼, SE¼; sec. 9; secs. 16 to 19, inclusive; sec. 20, W½NE¼, NW¼, S½; sec. 21; sec. 22, N½, N½SW¼, N½SE¼, SE¼SE¼; secs. 24 and 25; sec. 26, NE¼, NE¼NW¼, SW¼SW¼, NE¼SE¼; secs. 27 to 30, inclusive, and secs. 32 to 36, inclusive.''

(e) Under T. 9 S., R. 12 E., ''secs. 3, 4, and 12, all.'' is hereby corrected to read ''secs. 3 and 4; sec. 12, W½NE¼, NW¼, S½.''

(f) Under T. 9 S., R. 13 E., ''secs. 7, 8, 16 to 18, incl., 20 to 23, incl., 25 to 27, incl., and 36, all.'' is hereby corrected to read ''secs. 7, 8, 16, and 17; sec. 18, W½, NW¼SE¼, and S½SE¼; sec. 20, SW¼NE¼, NW¼, and S½; sec. 21; sec. 22, NE¼, N½NW¼, SE¼NW¼, SW¼SW¼, NE¼SE¼; sec. 23; secs. 25 to 27, inclusive, and sec. 36.''

(g) Under T. 10 S., R. 14 E., ''secs. 3 to 6, incl., 8 to 11, incl., 14 to 16, incl., 22 to 26, incl., and 36, all.'' is hereby corrected to read ''secs. 3 to 5, inclusive, sec. 6, lots 6, 7, and 13 to 16, inclusive, E½SW¼, SE¼; sec. 8, SW¼NE¼, W½, SE¼; sec. 9; sec. 10, E½, NW¼, N½SW¼, SE¼SW¼; sec. 11; sec. 14, E½, NW¼, N½SW¼, and SE¼SW¼; secs. 15 and 16, inclusive, sec. 22, SW¼NE¼, W½, and SE¼; secs. 23 to 25, inclusive, sec. 26, W½NE¼, W½, and SE¼; and sec. 36.''

(h) Under T. 10 S., R. 15 E., ''secs. 31 and 32, all.'' is hereby corrected to read ''sec. 31, all; sec. 32, N½, N½SW¼, SE¼SW¼, and SE¼.''

6. This action corrects an error in the legal descriptions contained in Public Land Order No. 3801, published as FR Doc. 65–9160 in the **Federal Register** on August 28, 1965 at page 11139 (30 FR

11139) for a partial revocation of Reclamation Withdrawals, Yuma Project, as follows: Under T. 5 S., R. 7 E., ''sec. 12, NW¼SE¼, SE¼SE¼.'' is hereby corrected to read ''sec. 12, SE¼SE¼.''

7. This action corrects an error in the legal descriptions contained in Public Land Order No. 5791, published as FR Doc. 80–39804 in the **Federal Register** on December 23, 1980 at page 84788 (45 FR 84788) for a partial revocation of Reclamation Withdrawals, as follows:

On page 84788, (a) under T. 12 S., R. 16 E., ''sec. 21, N½, N½SW¼, SE¼SW¼, and SE¼.'' is hereby corrected to read ''sec. 21, N½, NE¼SW¼, and SE¼.''

(b) under T. 16 S., R. 20 E., partially surveyed, ''secs. 20 to 22, inclusive; secs. 26 to 29, inclusive; secs. 33 to 35, inclusive; secs. 37 to 51, inclusive; secs. 56 to 57.'' is hereby corrected to read ''sec. 20; sec. 21, N½, and SW¼; sec. 22, lots 1 to 4, inclusive, NE¼, and SE¼; sec. 26, NE¼, NE¼NW¼, S½NW¼, and S½; sec. 27, S½; secs. 34 to 35, inclusive; secs. 37 to 43, inclusive; secs. 46 to 48, inclusive; secs. 56 and 57.''

8. This action corrects an error in the legal descriptions contained in Public Land Order No. 6576, published as FR Doc. 84–28136 in the **Federal Register** on October 25, 1984 on page 42934 (49 FR 42934) for a partial revocation of Secretarial Order of October 19, 1920, and Public Land Order No. 4690 of September 15, 1969, as follows: Under T. 6 S., R. 8 E., ''sec. 2, lot 1 of the NE¼, W½ of lot 2 of the NE¼, E½ of lot 2 of the NW¼, W½NW¼SE¼, and W½SE¼SE¼.'' is hereby corrected to read ''sec. 2, lot 1 of the NE¼, W½ of lot 2 of the NE¼, E½ of lot 2 of the NW¼, and W½NW¼SE¼.''

9. This action corrects errors in the legal descriptions referenced in Public Land Order No. 7262, published as FR Doc. 97–14486 in the **Federal Register** on June 4, 1997 on page 30613 (62 FR 30613) for modification and revocation of 19 Secretarial Orders, and 2 Bureau of Land Management Orders, which withdrew lands for the Bureau of Reclamation, California. Those legal descriptions are contained in a notice, published as FR Doc. 92–4838 in the **Federal Register** on March 3, 1992 on page 7599 (57 FR 7599) for proposed continuation of withdrawals, California. Those legal descriptions are corrected as follows:

(a) On page 7599, column 2, under CA–7231, Secretarial Order of January 31, 1903 as modified by Secretarial Orders of April 9, 1909 and April 5, 1910: (i) for T. 13 S., R. 16 E., ''sec. 1., lots 2, 3, 6, 7, 10, 15, 16, 17, 24;'' is hereby corrected to read ''sec. 1, lots 2, 3, 6, 7,10, 11, 14, 15, 16, 17, 18, 23, 24, 25, and that portion of lot 9 lying southwesterly of the boundary of the North Algodones Wilderness Area;'' (ii) the legal description for T. 17 S., R 16 E., is hereby corrected by adding ''sec. 10, NW¼SE¼;'' (iii) for T. 15 S., R. 18 E., ''sec. 11, SW¼SE¼, SW¼, SW¼NW¼, W½SE¼NW¼, S½NW¼NW¼;'' is hereby corrected to read ''sec. 11, SW¼SE¼, SW¼, NW¼NW¼, S½NW¼;'' and ''sec. 24, E½SE¼SE¼, N½SE¼, S½NE¼, NW¼NE¼, N½NW¼, SE¼NW¼;'' is hereby corrected to read ''sec. 24, SE¼SE¼, N½SE¼, S½NE¼, NW¼NE¼, N½NW¼, SE¼NW¼;'' (iv) for the legal description under CA–7231, the following is added ''T. 16 S., R. 18 E., sec. 31, lots 5 and 6, NE¼SW¼, N½SE¼, S½NW¼; sec. 32, S½N½, N½N½SW¼, N½SE¼; sec. 33, SW¼, S½SE¼; sec. 34, S½S½; sec. 35, S½S½;'' (v) for T. 16 S., R. 19 E., ''sec. 2, SW¼SW¼; sec. 12, SW¼SW¼; sec. 33, S½S½; and sec. 34, S½S½'' are added; ''sec. 3, S½;'' is hereby corrected to read ''sec. 3, lots 3 and 4, SW¼NE¼, S½NW¼, S½;''; ''sec. 13, SW¼, SW¼NW¼;'' is hereby corrected to read ''sec. 13, NW¼NW¼, S½NW¼, SW¼, SW¼SE¼;''; ''sec. 25, NE¼NE¼NE¼, S½;'' is hereby corrected to read ''sec. 25, NE¼NE¼, S½;''; ''sec. 31, E½;'' is hereby corrected to read ''sec. 31, lot 6, SE¼SW¼, E½;''; and ''sec. 35, E½;'' is hereby corrected to read ''sec. 35, S½SW¼, E½.''

(b) On page 7599, column 3, under CA–7232, (i) ''Secretarial Order of April 12, 1909 as modified by Secretarial Orders of April 5, 1910 and February 11, 1920'' is hereby corrected to read ''Secretarial Order of April 2, 1909, as modified by Secretarial Orders of April 5, 1910 and February 11, 1920'' (ii) the legal description for CA–7232 is hereby corrected by adding ''T. 10 S., R. 15 E., sec. 30, lot 6.''

(c) On page 7600, column 1 under CA–7234, Secretarial Order of February 28, 1918, under T. 15 S., R. 19 E., ''sec. 19, lots 3, 4, SE¼SW¼, SW¼SW¼SE¼;'' is hereby corrected to read ''sec. 19, lots 3, 4, SE¼SW¼, SW¼SE¼;''; ''sec. 32, NE¼NW¼, N½NE½, SE¼NE¼, NE¼SW¼NE¼;'' is hereby corrected to read ''sec. 32, NE¼NW¼, NE¼;'' and ''sec. 33, SW¼NW¼, N½SW¼, SE¼SW¼, W½NW¼SE¼, S½SE¼;'' is hereby corrected to ''sec. 33, NW¼NW¼, S½NW¼, N½SW¼, SE¼SW¼, NW¼SE¼, S½SE¼;''

(d) On page 7600, column 1, under CA–7235, Secretarial Order of March 15, 1919, for T. 16 S., R. 20 E., the legal description is hereby corrected by adding ''sec. 21, SE¼; sec. 22, SW¼; sec. 26, NW¼NW¼; sec. 27, N½; secs. 28 to 29, inclusive; sec. 33; secs. 44 and 45; secs. 49 to 51, inclusive.''; ''sec. 30, NW¼NW¼, S½NW¼, SW¼, W½SW¼SE¼;'' is hereby corrected to read ''sec. 30, NW¼NW¼, S½NW¼, SW¼, SW¼SE¼;''

(e) On page 7600, column 1, under CA–7236, (i) ''Secretarial Order of November 19, 1920'' is hereby corrected to read ''Secretarial Order of October 19, 1920'' (ii) the legal description under T. 5 S., R. 7 E., is hereby corrected by adding ''sec. 12, NW¼SE¼;'' (iii) ''T. 6 S., R. 8 E., sec. 2 E½NW¼SE¼, NE¼SE¼, E½SE¼SE¼;'' is hereby corrected to read ''T. 6 S., R. 8 E., sec. 2, E½NW¼SE¼, E½SE¼;'' (iv) ''T. 6 S., R. 9 E., sec. 18, lots 3, 4; sec. 28, SW¼SW¼; sec. 34, SW¼SW¼'' is hereby corrected to read ''T. 6 S., R. 9 E., sec. 18, lots 2 to 4, inclusive; sec. 20, S½NW¼, SW¼; sec. 28, SW¼SW¼; sec. 34, SW¼SW¼.'' (v) the legal description under T. 8 S., R. 11 E., is hereby corrected by adding ''sec. 2, N½, NE¼SW¼, S½SW¼, and SE¼;'' and ''sec. 6, N½, lots 1 and 2 of SW¼, SE¼;'' (vi) the legal description under CA–7236 is hereby corrected by adding ''T. 8 S., R. 12 E., sec. 6, N½, E½SE¼; sec. 8, W½W½, SE¼SW¼; sec. 20, E½NE¼; sec. 22, S½SW¼, SW¼SE¼; sec. 26, NW¼NW¼, S½NW¼, N½SW¼, SE¼SW¼, NW¼SE¼, S½SE¼.''

(f) On page 7601, column 2, CA–7239, Secretarial Order of June 4, 1930, (i) under T. 12 S., R. 16 E., ''sec. 21, SW¼SW¼;'' and ''sec. 28, S½, S½NE¼, SW¼NW¼NE¼, NW¼;'' are hereby corrected to read ''sec. 21, NW¼SW¼, S½SW¼;'' and ''sec. 28, S½, S½NE¼, NW¼NE¼, NW¼;'' (ii) under T. 13 S., R. 17 E., ''sec. 8, SW¼SW¼NE¼, NW¼, NE¼SW¼, NE¼SE¼, SW¼, NW¼SE¼, S½SE¼; sec. 17, N½NE¼, SE¼NE¼; sec. 21, NE¼, NE¼NW¼, E½SE¼, NE¼NW¼SE¼; sec. 22, S½SW¼, NW¼SW¼; sec. 26, SW¼SW¼SW¼; sec. 27, SW¼NE¼, N½NW¼, SE¼NW¼, NE¼SW¼, SE¼; sec. 34, NE¼NE¼, E½SE¼NE¼;'' is hereby corrected to read ''sec. 8, that portion of SE¼SW¼NE¼ lying southwesterly of the boundary of the North Algodones Wilderness Area, N½SW¼NE¼, SW¼SW¼NE¼, NW¼, E½SW¼, NW¼SE¼, S½SE¼; sec. 17, N½NE¼, SE¼NE¼; sec. 21, NE¼, NE¼NW¼, E½SE¼, NW¼SE¼; sec. 22, S½SW¼, NW¼SW¼; sec. 26, SW¼SW¼; sec. 27, W½NE¼, N½NW¼, SE¼NW¼, NE¼SW¼, and SE¼; sec. 34, E½NE¼;''; (iii) under T. 14 S., R. 18 E., ''sec. 17, SW¼SW¼SW¼; sec. 18, lot

1, NE¼NE¼SW¼, SW¼NE¼, E½NW¼; sec. 19, E½SE¼NE¼, NE¼NE¼; sec. 20, SE¼SW¼, N½SW¼, W½NW¼SE¼, SW¼SE¼, S½NW¼, NW¼NW¼;'' is hereby corrected to read ''sec. 17, SW¼SW¼; sec. 18, lot 1, NE¼SW¼, SW¼NE¼, E½NW¼; sec. 19, E½NE¼; sec. 20, SE¼SW¼, N½SW¼, W½SE¼, S½NW¼, NW¼NW¼;''; and ''sec. 33, SE¼SE¼, N½SE¼, S½NE¼, NW¼NE¼, E½NW¼; sec. 34, SW¼SW¼, W½NW¼SW¼.'' is hereby corrected to read ''sec. 33, SE¼SE¼, N½SE¼, S½NE¼, NW¼NE¼, E½NW¼, NW¼NW¼; sec. 34, W½SW¼.'' (iv) the legal description under CA–7239 is hereby corrected by adding ''T. 11 S., R. 15 E., sec. 8, SE¼NE¼.''

Dated: June 26, 2003.

Rebecca W. Watson,

Assistant Secretary—Lands and Minerals Management.

[FR Doc. 03–17927 Filed 7–15–03; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Environmental Water Account

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of Availability of Draft Environmental Impact DES 03–40 Statement/Environmental Impact Report (EIS/EIR) and notice of public workshops and public hearings.

SUMMARY: The Bureau of Reclamation (Reclamation), the National Environmental Policy Act (NEPA) Federal lead agency; and the California Department of Water Resources (DWR), the California Environmental Quality Act (CEQA) State lead agency; along with the U.S. Fish and Wildlife Service (FWS) and National Marine Fisheries Service (NOAA Fisheries), Federal Cooperating Agencies; and the California Department of Fish and Game (DFG), State Responsible Agency, have made available for public review and comment the Draft EIS/EIR for the CALFED Environmental Water Account (EWA).

The EWA addresses fish protection and recovery in the San Francisco Bay/Sacramento-San Joaquin Delta while at the same time improving water supply reliability for Central Valley Project (CVP) and State Water Project (SWP) customers. The CVP and SWP facilities that pump water from the Delta can entrain and kill fish, some of which are Federally and State listed species. Reductions in CVP and SWP pumping to protect these fish species can reduce water supply reliability. The EWA involves environmentally beneficial changes in operations of the CVP and SWP for Delta dependent native fish species, and acquires and manages water assets to pay back the water foregone by the CVP and SWP, assuring no uncompensated water cost to the projects' water users. Reclamation, DWR, FWS, NOAA Fisheries, and DFG collectively manage EWA assets and recommend operational changes to the CVP and SWP facilities. FWS, NOAA Fisheries, and DFG are responsible for recommending actions that protect and benefit Delta dependent fish populations. Reclamation and DWR are responsible for acquiring water assets from willing sellers and storing, conveying, and delivering the assets to the projects at appropriate times and locations to assure no uncompensated water cost to the projects' water users.

DATES: Submit written comments on the Draft EIS/EIR on or before September 15, 2003.

Public workshops will be held to discuss the purpose and content of the Draft EIS/EIR. The public workshops will be held as follows:

- Wednesday, July 16, 2003, 6 p.m., San Diego, CA.
- Monday, July 21, 2003, 6 p.m., Red Bluff, CA.
- Tuesday, July 22, 2003, 6 p.m., Fresno, CA.
- Wednesday, July 23, 2003, 6 p.m., Tracy, CA.
- Tuesday, July 29, 2003, 10 a.m., Sacramento, CA.

Public hearings will be held to provide the public an opportunity to orally comment on the Draft EIS/EIR. Written comments will also be accepted at the public hearing. The public hearings will be held as follows:

- Monday, August 25, 2003, 10 a.m., Sacramento, CA.
- Tuesday, August 26, 2003, 6 p.m., Red Bluff, CA.
- Thursday, August 28, 2003, 6 p.m., Fresno, CA.

ADDRESSES: Public workshops will be held at the following locations:

- San Diego, CA—Hyatt Regency Islandia, 1441 Quivira Road.
- Red Bluff, CA—Community and Senior Center, 1500 South Jackson Road.
- Fresno, CA—Ramada Inn Shaw, 324 East Shaw, Ballroom Shaw A.
- Tracy, CA—VFW, 430 West Grand Line Road.
- Sacramento, CA—Best Western Expo Inn, 1413 Howe Avenue, Expo Room.

Public hearings will be held at the following locations:

- Sacramento, CA—Best Western Expo Inn, 1413 Howe Avenue, Expo Room.
- Red Bluff, CA—Community and Senior Center, 1500 South Jackson Road.
- Fresno, CA—Ramada Inn Shaw, 324 East Shaw, Ballroom Shaw C.

Written comments on the Draft EIS/EIR should be addressed to Ms. Sandy Osborn, Bureau of Reclamation, 2800 Cottage Way MP–720, Sacramento, CA 95825 and Ms. Delores Brown, Department of Water Resources, 3251 ''S'' Street, Sacramento, CA 95816.

Copies of the Draft EIS/EIR may be requested from Ms. Sammie Cervantes, Bureau of Reclamation, 2800 Cottage Way, Sacramento, CA 95825, or by calling 916–978–5104, TDD 916–978–5608, or *scervantes@mp.usbr.gov.* The Draft EIS/EIR is accessible from the following Web sites: *http://www.mp.usbr.gov* or *http://www.dwr.water.ca.gov.* See **SUPPLEMENTARY INFORMATION** section for locations where copies of the Draft EIS/EIR are available for public review.

FOR FURTHER INFORMATION CONTACT: Ms. Sandy Osborn, Bureau of Reclamation, at 916–978–5129, TDD 916–978–5608, e-mail: *sosborn@mp.usbr.gov*; or Ms. Delores Brown, DWR, at 916–227–2407, e-mail: *delores@water.ca.gov.*

SUPPLEMENTARY INFORMATION: This EIS/EIR addresses implementation of the EWA as provided in the CALFED Programmatic EIS/EIR Record of Decision. The Draft EIS/EIR analyzes the direct, indirect, and cumulative effects on the physical, natural, and socioeconomic environment that may result from the purchase, storage, and conveyance of EWA assets, and the actions taken by the EWA to benefit fish populations. The EWA is designed to minimize adverse environmental effects, and the EIS/EIR proposes mitigation measures to offset unavoidable impacts. Resources analyzed in the EIS/EIR include water supply, power, air quality, aquatic and terrestrial wildlife, water quality, recreation, cultural resources, aesthetics, and socioeconomics, Indian Trust Assets, and environmental justice.

Copies of the Draft EIS/EIR are available for public review at the following locations:

- Department of Water Resources, Division of Environmental Services, 3251 S Street, Sacramento, CA 95816.
- Bureau of Reclamation, Public Affairs Office, 2800 Cottage Way, Sacramento, CA 95825.

• California Bay-Delta Authority, 650 Capitol Mall, 5th Floor, Sacramento, CA 95812.

• Bureau of Reclamation, Denver Office Library, Building 67, Room 167, Denver Federal Center, 6th and Kipling, Denver, Colorado 80225, 303–445–2072.

• Natural Resources Library, U.S. Department of the Interior, 1849 C Street, NW., Main Interior Building, Washington, DC 20240–0001.

• At various county libraries, contact Sammie Cervantes at 916–978–5104, TDD 916–978–5608, for specific locations.

Oral and written comments, including names and home addresses of respondents, will be made available for public review. Individual respondents may request that their home address be withheld from public disclosure, which will be honored to the extent allowable by law. There may be circumstances in which respondents' identity may also be withheld from public disclosure, as allowable by law. If you wish to have your name and/or address withheld, you must state this prominently at the beginning of your comment. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Dated: June 10, 2003.

Kirk C. Rodgers,

Regional Director, Mid-Pacific Region.

[FR Doc. 03–18045 Filed 7–15–03; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review; Extension of a currently approved collection; Requisition for forms or publications and requisition for firearms/explosives forms.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Number 68, Volume 101, page 28838 on May 7, 2003, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until August 15, 2003. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–7285.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technology collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Requisition For Forms or Publications and Requisition For Firearms/ Explosives Forms.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: ATF F 1370.3 and ATF F 1370.2. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. Other: Individuals or households. Abstract: The forms are used by the general public to request or order forms or publications from the ATF Distribution Center. The forms also notify ATF of the quantity required by the respondent and provide a guide as to annual usage of ATF forms and publications by the general public.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 30,000 respondents, who will complete each form within approximately 3 minutes.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 1,725 burden hours annually associated with this information collection.

If additional information is required contact: Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street NW., Washington, DC 20530.

Dated: July 10, 2003.

Brenda E. Dyer,

Deputy Clearance Officer, Department of Justice.

[FR Doc. 03–18005 Filed 7–15–03; 8:45 am]

BILLING CODE 4410–FB–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—AAF Association, Inc.

Notice is hereby given that, on June 16, 2003, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), AAF Association, Inc., has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Brooks Harris File & Tape, Inc., Marina del Ray, CA; Colorfront, Budapest, Hungary; Dark Matter Digital, Epsom, United Kingdom; and Digital Accelerant, Inc., Manhattan Beach, CA have been added as parties to this venture. Also, EMC Corporation,

Boston, MA; Incite Multimedia, Inc., Geneva, Switzerland; and Pandora International, Ltd., Northfleet, United Kingdom have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and AAF Association, Inc., intends to file additional written notification disclosing all changes in membership.

On March 28, 2000, AAF Association, Inc., filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on June 29, 2000 (65 FR 40127).

The last notification was filed with the Department on December 19, 2002. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on January 23, 2003 (68 FR 3272).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 03–17910 Filed 7–15–03; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The Advanced Film Capacitor Consortium

Notice is hereby given that, on June 10, 2003, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), The Advanced Film Capacitor Consortium has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notification were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are Ohio Aerospace Institute, Cleveland, OH; Lithium Power Technologies, Inc., Manvel, TX; Dupont Teijin Films US L.P., Hopewell, VA; Parallax Power Components, L.L.C., Bridgeport, CT; and Case Western Reserve University, Cleveland, OH. The nature and objectives of the venture are to research in the area of dielectric polymer film technology which will lead to the development of smaller, lighter, more portable electrical equipment. The participants are joining together to collaborate to accelerate the development of this technology.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 03–17909 Filed 7–15–03; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—eManufacturing Security Framework (Formerly Semiconductor Equipment and Materials International (SEMI))

Notice is hereby given that, on June 12, 2003, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), eManufacturing Security Framework (formerly Semiconductor Equipment and Materials International (SEMI)) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Asyst Connectivity Technologies Inc., Austin, TX has been dropped as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and eManufacturing Security Framework (formerly Semiconductor Equipment and Materials International (SEMI)) intends to file additional written notification disclosing all changes in membership.

On January 8, 2002, eManufacturing Security Framework (formerly Semiconductor Equipment and Materials International (SEMI)) filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on March 8, 2002 (67 FR 10762).

The last notification was filed with the Department on March 5, 2003. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on April 4, 2003 (68 FR 16552).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 03–17911 Filed 7–15–03; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Telemanagement Forum

Notice is hereby given that, on May 30, 2003, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Telemanagement Forum (''the Forum'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Syndesis Limited, Richmond Hill, Ontario, Canada; NDLO/CIS, Baerum Post Terminal, Norway; Java Wireless Competency Centre, Singapore, Singapore; Omega-Reason, Ltd, Islikon, Switzerland; Colt Telecom Group, PLC, London, United Kingdom; Ki Consulting & Solutions AB, Sundsvall, Sweden; SupportSoft, Inc., Redwood City, CA; Infosys Technologies Ltd., Bangalore, India; Telecom Corporation of New Zealand, Wellington, New Zealand; Protek, Maidenhead, Berkshire, United Kingdom; Imagine Broadband Ltd, London, United Kingdom; William S. Greene, Fairview, TX; Stevens Institute of Technology-School of Technology Management, Hoboken, NJ; CSG Systems Inc., Englewood, CO; Comrise Technology, Hazlet, NJ; Schema Ltd., Herzila, Israel; SIGOS GmbH, Nuremburg, Germany; The MITRE Corporation, McLean, VA; Telformance, Valbonne, France; Defence Communication Services Agency-DCSA, Corsham, Wiltshire, United Kingdom; STROM Telecom, Prague East, Czech Republic; Atreus Systems, Ottawa, Ontario, Canada; Elematics, Beaverton, OR; Inteligentis Limited, Maidenhead, Berkshire, United Kingdom; Geoff Coleman, Sherwood Park, Alberta, Canada; University of Zagreb-Faculty of Organization and Informatics, Varazdin, Croatia; Marc Malaise, Weston, FL; Fundacao CPqD, Campinas, Brazil; e*Tezeract, Inc., LaJolla, CA; Lemur Networks, Inc., Eatontown, NJ;

Mahindra-British Telecom Limited, Mumbai, India; Persistent Solutions, Jonkoping, Sweden; Tropic Networks Inc., Ottawa, Ontario, Canada; PT ExcelComindo Pratama, Jakarta, Indonesia; CGI Group Inc., Toronto, Ontario, Canada; Internap Network Services, Atlanta, GA; Aircom International, Redhill, Surrey, United Kingdom; Institute for Telecommunications Sciences-US Department of Commerce, Boulder, CO; Netprofits Limited, Englangen, Germany; Exigen Group, St. John, New Brunswick, Canada; St. Paul Venture Capital, Westboro, MA; Telewest Communication PLC, Woking, Surrey, United Kingdom; TCSI Corporation, Alameda, CA; T-Systems International GmbH, Frankfurt, Germany; CINTEL-The Colombian Telecommunications Research Center, Bogota, Colombia; SI–TECH Information Technology Ltd., Beijing, People's Republic of China; New Generations Operations, E. Windsor, NJ; Telexpertise De Mexico, S.A., Saltillo, Mexico; and Photuris, Inc., Piscataway, NJ have been added as parties to this venture.

The following existing members have changed their names: Convergere is now called Datamat S.p.A., Roma, Italy; CNI/NMG is now called Steleus Group, Inc., Limonest, France; Instituto Costarricense De Electricidad is now called ICE, Miami, FL; Omnitel Pronto Italia S.p.A. is now called Vodafone Omnitel S.p.A., Ivrea, Italy; Telecom & Technology is now called JT Venture Partners, Denville, NJ; Agilent is now called Agilent Technologies, Folsom, CA; Blaze Advisor is now called HNC Software, Falls Church, VA; Kapsch AG is now called Kapsch CarrierCom AG, Vienna, Austria; Verdonick, Klooster is now called Verdonick, Klooster & Associates, Zoetermeer, The Netherlands; Amdocs Ltd., is now called Amdocs, Amdocs Management Ltd., London, United Kingdom; Metasolv Software is now called MetaSolv Software, Inc., Plano, TX; Otto-Henning & Company is now called Otto, Henning & Company International Strategy Consultants GmbH, Frankfurt, Germany; PQ Africa is now called Comparex Africa, Gauteng, South Africa; Sigma Systems Group is now called Liberate Technologies, San Carlos, CA; HNC Software is now called Fair, Isaac and Company, Valbonne, France; MITRE Corporation is now called MITRE, Bedford, MA; TeleDanmark A/S is now called TDC, Copenhagen, Denmark; and Telia and Sonera is now called TeliaSonera, Helsinki, Finland.

The following company has reinstated its membership: Compaq Telcom, Sophia Antipolis Cedex, France.

The following members have cancelled or have had their memberships cancelled: Opening Technologies, McLean, VA; Mitsubishi Electric Corporation, Vilaine, France; JetStream Communications, San Jose, CA; Au-Systems, Stockholm, Sweden; Innovance Networks, Ottawa, Ontario, Canada; Intech Taiwan Corporation, Hsinchu, Taiwan; Movaz Networks, Norcross, GA; Extreme Networks, Pleasanton, CA; Ryan-Hankin-Kent, Inc., Palo Alto, CA; Etnoteam, Milano, Italy; GE Global Exchange Services, Gaithersburg, MD; Lynx Photonic Networks, Rosh Ha'Ayin, Israel; MDSI-Mobile Dat Solutions Inc., Aurora, CO; Credit Suisse First Boston, Zuerich, Switzerland; High Deal, Redwood Shores, CA; Lumos Technologies, Inc., Santa Monica, CA; US Interactive, Cupertino, CA; Equant, Atlanta, GA; Linmor Technologies, Nepean, Ontario, Canada; Lumos Technologies, Santa Monica, CA; Mahi Networks, Petaluma, CA; Opticom, Carmel, IN; Portal Software, Cupertino, CA; Wavesmith Networks, Acton, MA; Convergineering, Fair Haven, NJ; and Paul Short Consulting, Huddinge, Sweden.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and the Forum intends to file additional written notifications disclosing all changes in membership.

On October 21, 1988, the Forum filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on December 8, 1988 (53 FR 49615).]

The last notification was filed with the Department on July 24, 2002. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on September 18, 2002 (67 FR 58825).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 03–17912 Filed 7–15–03; 8:45 am]

BILLING CODE 4410–11–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meeting Notice

July 8, 2003.

TIME AND DATE: 10 a.m., Thursday, July 17, 2003.

PLACE: Hearing Room, 9th Floor, 601 New Jersey Avenue, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following in open session: *Secretary of Labor* v. *Cougar Coal Co. and Leslie B. Combs,* Docket Nos. KENT 2000–133 and KENT 2000–277. (Issues include whether the judge erred in determining that Cougar Coal's violation of 30 CFR 77.501 was not a result of the operator's unwarrantable failure to comply with the regulation; whether the judge erred in determining that Leslie Combs was not liable for the violation of 30 CFR 77.501 under section 110(c) of the Federal Mine Safety and Health Act of 1977; and whether the judge erred in dismissing alleged violations of 30 CFR 50.10 and 50.12 on the basis that no ''accident'' occurred.)

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFO: Jean Ellen, (202) 434–9950, (202) 708–9300 for TDD Relay, 1–800–877–8339 for toll free.

Jean H. Ellen,

Chief Docket Clerk.

[FR Doc. 03–18111 Filed 7–14–03; 1:17 pm]

BILLING CODE 6735–01–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meeting Notice

TIME AND DATE: 10 a.m., Thursday, July 24, 2003.

PLACE: Hearing Room, 9th Floor, 601 New Jersey Avenue, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following in open session: *Secretary of Labor* v. *Western Industrial Insulating, Inc.,* Docket No. WEST 2001–473–RM. (Issues include whether substantial evidence supports the judge's determination that the operator failed to provide safe access to work scaffolding in violation of 30 CFR 56.11001; and whether the judge properly found that the violation was significant and substantial.

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as

sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFO: Jean Ellen, (202) 434–9950, (202) 708–9300 for TDD Relay, 1–800–877–8339 for toll free.

Jean H. Ellen,

Chief Docket Clerk.

[FR Doc. 03–18112 Filed 7–14–03; 1:20 pm]

BILLING CODE 6735–01–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget (OMB) Review

AGENCY: U. S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

1. *Type of submission, new, revision, or extension:* Revision.

2. *The title of the information collection:* Proposed Rule to Update 10 CFR part 52, ''Early Site Permits; Standard Design Certifications; and Combined Licenses for Nuclear Power Plants.''

3. *The form number if applicable:* N/A.

4. *How often the collection is required:* One occasion and every 10 to 20 years for applications for renewal.

5. *Who will be required or asked to report:* Designers of commercial nuclear power plants, electric power companies, and any person eligible under the Atomic Energy Act to apply for a construction permit for a nuclear power plant.

6. *An estimate of the number of responses:* 0.

7. *The estimated number of annual respondents:* 0.

8. *An estimate of the total number of hours needed annually to complete the requirement or request:* 3,429 hours, however, no combined license applications are anticipated during the next three years.

9. *An indication of whether Section 3507(d), Pub. L. 104–13 applies:* N/A.

10. *Abstract:* The NRC is proposing to reorganize 10 CFR part 52 to establish a separate subpart for each of the seven licensing processes currently described in 10 CFR part 52 (early site permits, early site reviews, standard design certification, standard design approvals, combined licenses, manufacturing licenses, and duplicate design licenses). The purpose of this reorganization is to clarify that each licensing process has equal standing. In addition, several subparts would be reserved for future licensing processes. No substantive changes are intended by the incorporation of current Appendices M, N, O, and Q into the new subparts in 10 CFR part 52.

The NRC is also proposing to retitle 10 CFR part 52 as ''Additional Licensing Processes for Nuclear Power Plants,'' to clarify that the licensing processes in 10 CFR part 52 are in addition to and supplement the two-step licensing process in 10 CFR part 50 and the license renewal process in 10 CFR part 54, and are not limited to the early site permit, standard design certification, and combined license processes as the current title implies.

Submit, by August 15, 2003, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the submittal may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F23, Rockville, MD 20852. The proposed rule indicated in ''The title of the information collection'' is or has been published in the **Federal Register** within several days of the publication date of this **Federal Register** Notice. The OMB clearance package and rule are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/0mb/index.html* for 60 days after the signature date of this notice and are also available at the rule forum site, *http://ruleforum.llnl.gov.*

Comments and questions should be directed to the OMB reviewer by August 15, 2003: Bryon Allen, Office of Information and Regulatory Affairs (3150–0151), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3087.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 10th day of July 2003.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 03–17961 Filed 7–15–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–311]

PSEG Nuclear, LLC Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission or the NRC) is considering issuance of an amendment to Facility Operating License No. DPR–75 issued to PSEG Nuclear, LLC (PSEG or the licensee) for operation of the Salem Nuclear Generating Station (Salem), Unit No. 2, located in Salem County, New Jersey.

The proposed amendment would revise License Condition 2.C.10, ''Fire Protection,'' to reflect changes to the Salem post-fire Safe Shutdown (SSD) strategy for Fire Areas 2–FA–AB–64B, 2–FA–AB–84C, and 2–FA–AB–84B. The proposed changes were submitted as a result of PSEG's re-analysis of post-fire SSD capability and recent plant modifications implemented in response to resolution of Electrical Raceway Fire Barrier System issues at Salem.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in title 10 of the Code of Federal Regulations (10 CFR), section 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a

margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes to the Salem Unit 2 post-fire safe shutdown (SSD) in fire areas 2–FA–AB–64B, 2–FA–AB–84C and 2–FA–AB–84B only impact Salem Unit No. 2's response in the event of a fire. No other design basis events are impacted by the proposed changes. These proposed changes do not increase the probability of fire event that has been previously analyzed. The likelihood of fire event is not increased since the proposed change does not alter the fire hazards contained in the plant. [ ]

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change to [the] post-fire SSD strategy in fire areas 2–FA–AB–64B, 2–FA–AB–84C and 2–FA–AB–84B does not create the possibility of a new or different kind of accident. The design basis event applicable to this proposal is that of a fire event in the three subject fire areas, therefore a new or different kind of accident is not introduced. [T]he revised SSD strategy ensures that Salem Unit 2 can be safely shutdown in the event of a fire in these areas.

Therefore, this proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed changes to the post-fire SSD strategy for fire areas 2–FA–AB–64B, 2–FA–AB–84C and 2–FA–AB–84B do not reduce the margin of safety in response to a fire in these areas. The proposed deviations from 10 CFR 50 Appendix R Section III.G.3 and III.L.3 do not impede Salem Unit 2's ability to safely shutdown in the event of a fire in these areas. Modifying the plant to comply with these requirements would not significantly increase the margin of safety in the event of fire in these areas. The changes to the post-fire SSD strategy in these areas along with the modifications performed to support these changes ensure that a level of margin of safety is maintained.

As a result, this change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish, in the **Federal Register**, a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By August 15, 2003, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714, which is available at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, or electronically on the Internet at the NRC Web site *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If there are problems in accessing the document, contact the Public Document Room Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.* If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth, with particularity, the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted, with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene, or who has been admitted as a party, may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific

sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing, or a petition for leave to intervene, must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. Because of the continuing disruptions in delivery of mail to United States Government offices, it is requested that petitions for leave to intervene and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301–415–1101 or by e-mail to *hearingdocket@nrc.gov.* A copy of the petition for leave to intervene and request for hearing should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and because of continuing disruptions in delivery of mail to United States Government offices, it is requested that copies be transmitted either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov.* A copy of the request for hearing and petition for leave to intervene should also be sent to Jeffrie J. Keenan, Esquire, Nuclear Business Unit—N21, P.O. Box 236, Hancocks Bridge, NJ 08038, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated July 1, 2003, which is available for public inspection at the Commission's PDR, located at One White Flint North, File Public Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records can be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS, or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 9th day of July 2003.

For the Nuclear Regulatory Commission.

Robert J. Fretz,

Project Manager, Section 2, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 03–17959 Filed 7–15–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–413 and 50–414]

Duke Energy Corporation, North Carolina Electric Membership Corporation, Saluda River Electric Cooperative, Inc., Catawba Nuclear Station, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of exemptions from Title 10 of the Code of Federal Regulations (10 CFR) part 50, section 50.44, section 50.46, and Appendix K, for Facility Operating License Nos. NPF–35 and NPF–52, issued to Duke Power Company, et al, (the licensee), for operation of the Catawba Nuclear Station (CNS), Units 1 and 2, located in York County, South Carolina. Therefore, pursuant to 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would exempt the Catawba Nuclear Station, Units 1 and 2, from the requirements of 10 CFR 50.44, 10 CFR 50.46 and 10 CFR part 50, Appendix K, to allow the use of eight Lead Test Assemblies (LTAs) fabricated with a cladding material that contains a nominally lower tin content than previously approved cladding materials.

The proposed action is in accordance with the licensee's application dated December 3, 2002, as supplemented by letter dated April 8, 2003.

The Need for the Proposed Action

As the nuclear industry pursues longer operating cycles with increased fuel discharge burnups and more aggressive fuel management, the corrosion performance specifications for the nuclear fuel cladding become more demanding. Industry data indicates that corrosion resistance improves for cladding with a lower tin content. The optimum tin level provides a reduced corrosion rate while maintaining the benefits of mechanical strengthening and resistance to accelerated corrosion from abnormal chemistry conditions. In addition, fuel rod internal pressures (resulting from the increased fuel duty, use of integral fuel burnable absorbers and corrosion/temperature feedback effects) have become more limiting with respect to fuel rod design criteria. By reducing the associated corrosion buildup, and thus, minimizing temperature feedback effects, additional

margin to fuel rod internal pressure design criteria is obtained.

As part of a program to address these issues, the Westinghouse Electric Company has developed an LTA program in cooperation with the licensee that includes a ZIRLO fuel cladding with a tin content lower than the currently licensed range for ZIRLO. The NRC's regulations in 10 CFR 50.44, 10 CFR 50.46 and in 10 CFR part 50, Appendix K, make no provision for use of fuel rods clad in a material other than Zircalloy or ZIRLO. The licensee has requested the use of an LTA with a tin composition that is less than that specified in the licensing basis for ZIRLO, as defined in Westinghouse design specifications. Therefore, use of the LTA calls for exemptions from 10 CFR 50.44, 10 CFR 50.46 and 10 CFR part 50, Appendix K. As part of this program, the licensee's current plans are to include eight LTAs in the Catawba Nuclear Station, Unit 1, Cycle 15, core in non-limiting core locations during the refueling outage currently scheduled to begin in the Fall of 2003. The licensee has requested the exemption for both Catawba units, and the staff finds the exemption request for a total of up to eight LTAs to be applicable to either of the Catawba units.

Environmental Impacts of the Proposed Action

The NRC staff has completed its environmental evaluation of the proposed action and concludes that the proposed exemptions would not increase the probability or consequences of accidents previously analyzed and would not affect facility radiation levels or facility radiological effluents.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of effluents that may be released offsite, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not involve any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the NRC staff concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.*, the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

The action does not involve the use of any different resource than those previously considered in the Final Environmental Impact Statement for the CNS, Units 1 and 2, NUREG–0921—''Final Environmental Impact Statement Related to the Operation of Catawba Nuclear Station; Units 1 and 2'', U.S. Nuclear Regulatory Commission, dated January 1983.

Agencies and Persons Consulted

On July 9, 2003, the staff consulted with the South Carolina State official, Mr. Henry Porter, of the Department of Health and Environmental Control, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated December 3, 2002, as supplemented by letter dated April 8, 2003. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209 or 301–415–4737, or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this tenth day of July, 2003.

For the Nuclear Regulatory Commission.

Leonard N. Olshan,

Acting Chief, Section I, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 03–17958 Filed 7–15–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–315]

Indiana Michigan Power Company Donald C. Cook Nuclear Plant, Unit 1; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from Title 10 of the Code of Federal Regulations (10 CFR) part 50, Appendix G for Facility Operating License No. DPR–58, issued to Indiana Michigan Power Company (the licensee), for operation of the Donald C. Cook (D. C. Cook) Nuclear Plant, Unit 1, located in Berrien County, Michigan. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would exempt the licensee from the requirements of 10 CFR part 50, section 50.60(a) and Appendix G, which would allow the use of American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME Code) Code Case N–641 as the basis for revised reactor vessel pressure and temperature (P–T) curves, and low temperature overpressure protection system setpoints in the D. C. Cook Unit 1, technical specifications.

The regulation, at 10 CFR part 50, section 50.60(a), requires, in part, that except where an exemption is granted by the Commission, all light-water nuclear power reactors must meet the fracture toughness requirements for the reactor coolant pressure boundary set forth in Appendices G and H to 10 CFR part 50. Appendix G to 10 CFR part 50 requires that P–T limits be established for reactor pressure vessels (RPVs) during normal operating and hydrostatic or leak-rate testing conditions. Specifically, 10 CFR part 50, Appendix G, states, ''The appropriate requirements on both the P–T limits and the minimum permissible temperature must be met for all conditions.'' Appendix G of 10 CFR part 50 specifies that the requirements for these limits are the

ASME Code, section XI, Appendix G, limits.

ASME Code Case N–641 permits the use of alternate reference fracture toughness (*i.e.*, use of ''K_{IC} fracture toughness curve'' instead of ''K_{IA} fracture toughness curve,'' where K_{IC} and K_{IA} are ''Reference Stress Intensity Factors,'' as defined in ASME Code, section XI, Appendices A and G, respectively) for reactor vessel materials in determining the P–T curves and low temperature overpressure protection system setpoints for effective temperature and allowable pressure. Since the K_{IC} fracture toughness curve shown in ASME Code, section XI, Appendix A, Figure A–2200–1 (the K_{IC} fracture toughness curve), provides greater allowable fracture toughness than the corresponding K_{IA} fracture toughness curve of ASME Code, section XI, Appendix G, Figure G–2210–1 (the K_{IA} fracture toughness curve), using ASME Code Case N–641 to establish the P–T curves and low temperature overpressure protection system setpoints would be less conservative than the methodology currently endorsed by 10 CFR part 50, Appendix G. Therefore, an exemption to apply ASME Code Case N–641 is required.

The proposed action is in accordance with the licensee's application dated December 10, 2002.

The Need for the Proposed Action

The proposed exemption is needed to allow the licensee to implement ASME Code Case N–641 in order to revise the method used to determine the P–T curves and because low temperature overpressure protection system setpoints based on the method specified by Appendix G to 10 CFR part 50, unnecessarily restrict the P–T operating window.

The underlying purpose of Appendix G, is to protect the integrity of the reactor coolant pressure boundary (RCPB) in nuclear power plants. This is accomplished through regulations that, in part, specify fracture toughness requirements for ferritic materials of the RCPB. Pursuant to 10 CFR part 50, Appendix G, it is required that P–T limits for the reactor coolant system (RCS) be at least as conservative as those obtained by applying the methodology of the ASME Code, section XI, Appendix G. Current P–T limits produce operational constraints by limiting the P–T range available to the operator to heat up or cool down the plant. The operating window through which the operator heats up and cools down the RCS, becomes more restrictive with continued reactor vessel service. Reducing this operating window could potentially have an adverse safety impact by increasing the possibility of inadvertent low temperature overpressure protection system (OPPS) actuation due to pressure surges associated with normal plant evolutions, such as reactor coolant pump start and swapping operating charging pumps with the RCS in a water-solid condition. P–T limits for an increased service period of operation of 32 effective full-power years for D. C. Cook Unit 1, based on ASME Code, section XI, Appendix G requirements, would significantly restrict the ability to perform plant heatup and cooldown, create an unnecessary burden to plant operations, and challenge control of plant evolutions required with OPPS enabled. Continued operation of D. C. Cook Unit 1 with P–T curves developed to satisfy ASME Code, section XI, Appendix G, requirements without the relief provided by ASME Code Case N–641, would unnecessarily restrict the P–T operating window, especially at low temperature conditions. Use of the K_{IC} curve in determining the lower bound fracture toughness of RPV steels is more technically correct than use of the K_{IA} curve, since the rate of loading during a heatup or cooldown is slow and is more representative of a static condition than a dynamic condition. The K_{IC} curve appropriately implements the use of static initiation fracture toughness behavior to evaluate the controlled heatup and cooldown process of a reactor vessel. The staff has required use of the conservatism of the K_{IA} curve since 1974, when the curve was adopted by the ASME Code. This conservatism was initially necessary due to the limited knowledge of the fracture toughness of RPV materials at that time. Since 1974, additional knowledge has been gained about RPV materials, which demonstrates that the lower bound on fracture toughness provided by the K_{IA} curve greatly exceeds the margin of safety required, and that the K_{IC} curve is sufficiently conservative to protect the public health and safety from potential RPV failure. Application of ASME Code Case N–641 will provide results that are sufficiently conservative to ensure the integrity of the RCPB, while providing P–T curves and low temperature overpressure protection system setpoints that are not overly restrictive. Implementation of the proposed P–T curves and low temperature overpressure protect system setpoints, as allowed by ASME Code Case N–641, will continue to provide significant safety margin for the RCPB.

In the associated exemption, the NRC staff has determined that, pursuant to 10 CFR part 50, section 50.12(a)(2)(ii), the underlying purpose of the regulation will continue to be served by the implementation of ASME Code Case N–641.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that there are no significant environmental impacts associated with the use of the alternative analysis method to support the revision of the RCS P–T limits.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.*, the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

The action does not involve the use of any different resource than those previously considered in the Final Environmental Statement for the Donald C. Nuclear Plant Units 1 and 2, dated August 1973.

Agencies and Persons Consulted

On June 6, 2003, the staff consulted with the Michigan State official, Ms. Sara De Cair of the Department of Environmental Quality, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated December 10, 2002. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209 or 301–415–4737, or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 10th day of July 2003.

For the Nuclear Regulatory Commission.

L. Raghavan,

Chief, Section 1, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 03–17960 Filed 7–15–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 70–143]

Nuclear Fuel Services, Inc.; Environmental Assessment and Finding of No Significant Impact

I. Introduction

The Nuclear Regulatory Commission (NRC) staff has received a license amendment request from Nuclear Fuel Services, Inc. (NFS) dated January 23, 2003, to amend Special Nuclear Material License SNM–124 to use International Commission on Radiation Protection (ICRP) Publication 68 for Derived Air Concentration (DAC) and the Annual Limit on Intake (ALI) determinations (Ref. 1, 2). An Environmental Assessment (EA) was performed by the NRC staff in support of its review of NFS' license amendment request, in accordance with the requirements of 10 CFR part 51. The conclusion of the EA is a Finding of No Significant Impact (FONSI) for the proposed licensing action.

II. Supplementary Information

Background

The NFS facility in Erwin, TN is authorized under SNM–124 to possess nuclear materials for the fabrication and assembly of nuclear fuel components. The facility fabricates research and university reactor components and manufactures compact reactor fuel elements. The facility also performs recovery of scrap uranium.

Inhalation of dust in radiologically controlled areas poses an internal radiation hazard, and the NRC regulations in 10 CFR part 20 require licensees to implement certain protective measures to minimize that hazard. These measures include taking a variety of air samples, using respirators in certain work areas, posting airborne radioactivity warning signs outside the work areas, and putting the potentially exposed workers on a routine bioassay program to assess their intakes and verify the effectiveness of the protection program. Many of these protective measures are triggered when the air concentrations in the workplace reach specified fractions of the air concentrations tabulated in 10 CFR part 20 appendix B. NFS has requested to amend its license to permit the use of values other than those tabulated in Part 20 as the basis for triggering protective measures, and for assessing the internal dose to its workers. The basis for the amendment request is the recommendations in ICRP 68. In the amendment application, NFS maintains that the assessment of the radiological hazard based on 10 CFR part 20 Appendix B requires it to implement monitoring and protection programs at levels that are out of proportion with the true level of hazard, and that do not significantly add to worker protection. NFS believes that granting the exemption would enable it to reduce the size of its internal exposure program while, at the same time, provide a level of protection proportional to the actual hazard. NFS references an NRC Staff Requirements Memorandum (SECY–99–077) which directs the staff to grant exemptions to 10 CFR part 20 on this modeling issue on a case-by-case basis.

Review Scope

In accordance with 10 CFR part 51, this EA serves to (1) present information and analysis for determining whether to issue a Finding of No Significant Impact (FONSI) or to prepare an Environmental Impact Statement (EIS); (2) fulfill the NRC's compliance with the National Environmental Policy Act when no EIS is necessary; and (3) facilitate preparation of an EIS when one is necessary. Should the NRC issue a FONSI, no EIS would be prepared and the license amendment would be granted.

This document serves to evaluate and document the impacts of the proposed action. Other activities on the site have previously been evaluated and documented in the 1999 Environmental Assessment (EA) for the Renewal of the NRC license for NFS (Ref. 3). The 1999 document is referenced when no significant changes have occurred. Besides the proposed licensing action, operations will continue to remain limited to those authorized by the license.

Proposed Action

The proposed action is to amend NRC Materials License SNM–124 to authorize the use of Derived Air Concentration (DAC) and the Annual Limit on Intake (ALI) values specified in International Commission on Radiation Protection Publication 68 (ICRP 68), entitled Dose Coefficients for Intake of Radionuclides by Worker (Ref. 2). The DAC/ALI values would be used to assign the effective dose to workers based on an aerosol particle size of 5 microns as specified in ICRP 68. The proposed DAC/ALI values are based on particle size studies, as currently described in Sections 3.2.5.1 and 12.13.5 of Materials License SNM–124 (Ref. 4).

Affected Environment

The affected environment for the proposed activity is the NFS site. A full description of the site and its characteristics is given in the 1999 Environmental Assessment (EA) for the Renewal of the NRC license for NFS (Ref. 3).

Effluent Releases and Monitoring

A full description of the effluent monitoring program at the site is provided in the 1999 Environmental Assessment for the Renewal of the NRC license for NFS (Ref. 3). Monitoring programs at the NFS facility comprise effluent monitoring of air and water and environmental monitoring of various media (air, soil, vegetation, and groundwater). This program provides a basis for evaluation of public health and safety impacts, for establishing compliance with environmental regulations, and for development of mitigation measures if necessary. The monitoring program is not expected to change as a result of the proposed action. The NRC has reviewed the

location of the environmental monitoring program sampling points, the frequency of sample collection, and the trends of the sampling program results in conjunction with the environmental pathway and exposure analysis and concluded that the monitoring program provides adequate protection of public health and safety.

Environmental Impacts of Proposed Action

Radiological Impacts

The basic limits on radiation exposures, as well as the minimum radiation protection practices required of any NRC licensee, are specified in 10 CFR part 20, ''Standards for Protection Against Radiation'' (Ref. 5). The models used in part 20 to regulate internal doses are those described in ICRP Publications 26 and 30, adopted by ICRP in 1977 and 1978, respectively (Ref. 6, 7). Much of the basic structure of these models was developed in 1966, although some of its components and parameters were altered somewhat between 1966 and their formal adoption by ICRP in 1978. In the same year that the Commission approved the final Part 20 rule (1991), ICRP published a major revision of its radiation protection recommendations, ICRP 60 (Ref. 8). In the several years following this revision, ICRP published a series of reports in which it described the components of an extensively updated and revised internal dosimetry model. Due to the restrictions in part 20, NRC licensees are not permitted to use the revised and updated internal dosimetry models, without requesting an exemption to the regulations.

Although the dose per unit intake calculated using the new models does not differ by more than a factor of about two from the values in Part 20 for most radionuclides, the differences are substantial for some, particularly for the isotopes of thorium, uranium, and some of the transuranic radionuclides. For example, for inhalation of insoluble thorium-232 (^{232}Th), the dose per unit intake calculated using the revised ICRP lung model is a factor of about 15 times lower than that in part 20. Because protective measures are based on the hazard, and since the hazard is proportional to dose, part 20 requires significantly more protective measures when using ^{232}Th than would be warranted based on the revised models. This is NFS's primary concern, and has requested that it be allowed to use DAC and ALI values based on the dose coefficients listed in ICRP 68. The staff concluded during the license renewal on July 2, 1999, that NFS, due to adequate training and expertise, is qualified to utilize the ICRP Model's such as ICRP–68 in a manner equivalent to those values listed in 10 CFR 20.1201(d), *i.e.*, doses to less than NRC's regulatory limit of 5 rem, in its Radiation Safety Program. Therefore, NFS' request for an exemption under 10 CFR 20.2301 and 10 CFR 70.14(a) is acceptable, because it gives its workers equivalent radiological protection as required by 10 CFR part 20. Thus, the exemption is authorized by law and will not result in an undue hazard to life or property.

Nonradiological Impacts

The NRC determined that there are no nonradiological impacts associated with the proposed action.

Cumulative Impacts

The NRC determined that there are no cumulative impacts associated with the proposed action.

Alternatives to the Proposed Action

NRC considered one alternative to the proposed action which was to deny the amendment request. This alternative was rejected because the impacts of the proposed action on the health and safety of the workers, the public, and the environment were determined to be insignificant. In addition, the licensee will be able to save time and resources on implementing protective measures, upon approval of the proposed action.

Agencies and Persons Contacted

The NRC contacted the Director of Radiological Heath at the Tennessee Department of Environment and Conservation (TDEC) concerning this request. There were no comments, concerns or objections from the state.

Because the proposed action is entirely within existing facilities, and does not involve new or increased effluents or accident scenarios, the NRC has concluded that there is no potential to affect endangered species or historic resources, and therefore consultation with the State Historic Preservation Society and the U.S. Fish and Wildlife Service was not performed.

III. Finding of No Significant Impact

Based upon the environmental assessment, the staff concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the staff has determined that preparation of an environmental impact statement is not warranted.

IV. Further Information

The following documents are related to the proposed action:

1. B.M. Moore, Nuclear Fuel Services, Inc., Letter to U.S. Nuclear Regulatory Commission, ''License Amendment Request to Use ICRP 68 for ALI and DAC Determinations,'' January 23, 2003. (ADAMS Accession Number ML030290097).

2. International Commission on Radiological Protection, ''Dose Coefficients for Intake of Radionuclides by Worker,'' Publication 68, Elsevier Science, 1995.

3. T. Cox, U.S. Nuclear Regulatory Commission, Letter to T.S. Baer, Nuclear Fuel Services, Inc., ''Finding of No Significant Impact and Environmental Assessment,'' January 29, 1999.

4. U.S. Nuclear Regulatory Commission, Special Nuclear Material License SNM–124.

5. *U.S. Code of Federal Regulations*, ''Standards for Protection Against Radiation,'' Part 20, Chapter 1, Title 10, Energy.

6. International Commission on Radiological Protection, ''Recommendations of the International Commission on Radiological Protection,'' Publication 26, Elsevier Science, 1977.

7. International Commission on Radiological Protection, ''Limits for the Intake of Radionuclides by Workers,'' Publication 30, Elsevier Science, 1978.

These references may be examined and/or copied for a fee at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The references with ADAMS accession numbers may also be viewed in the NRC's Electronic Public Document Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* Any questions with respect to this action should be referred to Ms. Mary Adams, Fuel Cycle Facilities Branch, Division of Fuel Cycle Safety and Safeguards, U.S. Nuclear Regulatory Commission, Mail Stop T–8 A33, Washington, DC 20555–0001. Telephone 301–415–7249.

Dated at Rockville, Maryland, this 7th day of July, 2003.

For the Nuclear Regulatory Commission.

Susan M. Frant,

Chief, Fuel Cycle Facilities Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 03–17962 Filed 7–15–03; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–26097; File No. 812–12913]

National Life Insurance Company, et al.; Notice of Application

July 9, 2003.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order pursuant to section 26(c) of the Investment Company Act of 1940 (the ''Act'') approving certain substitutions of securities.

APPLICANTS: National Life Insurance Company (''NLIC''), National Variable Annuity Account II (''Annuity Account''), and National Variable Life Insurance Account (''Life Account'').

FILING DATE: The application was filed on December 19, 2002, and amended and restated on April 3, April 18, and June 25, 2003.

SUMMARY OF APPLICATION: Applicants request an order to permit NLIC to substitute securities issued by two series of the Sentinel Variable Products Trust (''SVPT'') to support variable annuity contracts or variable life insurance contracts (collectively, the ''Contracts'') issued by NLIC, for securities issued by two series of the Gartmore Variable Insurance Trust (''GVIT''), which series are successors of two series of the Market Street Fund (''MSF''), and are currently held by either the Annuity Account or the Life Account (each, an ''Account,'' together, the ''Accounts'').

HEARING OR NOTIFICATION OF HEARING: An order granting the amended and restated application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on July 30, 2003, and should be accompanied by proof of service on Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Applicants, c/o D. Russell Morgan, Esq., Assistant General Counsel, National Life Insurance Company, National Life Drive, Montpelier, Vermont 05604. Copy to David S. Goldstein, Esq., Sutherland Asbill & Brennan LLP, 1275 Pennsylvania Avenue, NW, Washington, DC 20004–2415.

FOR FURTHER INFORMATION CONTACT: Ellen J. Sazzman, Senior Counsel, or Lorna J. MacLeod, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the Public Reference Branch of the Commission, 450 5th Street, NW, Washington, DC 20549 (tel. (202) 942–8090).

Background

1. On December 19, 2002, Applicants applied for an order of the Commission, pursuant to section 26(c) of the Act, approving the substitution of securities issued by two series of SVPT for securities issued by two series of the MSF then held by the Accounts. Applicants amended that application on April 3, 2003 to reflect changes made in response to comments from the Commission staff as well as to update certain other information. The Commission published a notice of the amended application on April 4, 2003.

2. The amended application discussed, among other things, the fact that shareholders of the two MSF series had recently approved the acquisition of each of the series by similar series of the GVIT. At the time, Applicants anticipated that the acquisition would occur shortly after the proposed substitutions. Shortly after the April 4, 2003 notice of the amended application was published, Applicants became aware of the fact that the acquisition would, in fact, occur shortly before the proposed substitutions. In response, Applicants filed a second amended application on April 18, 2003, seeking an order approving the substitution of securities issued by the two series of SVPT for securities issued by two series of GVIT, which series were anticipated to be the successors of the two MSF series then held by the Accounts.

Applicants' Representations

1. SVPT currently has seven investment portfolios, two of which are the subject of this application (each, a ''Fund''), while GVIT has thirty-four investment portfolios, two of which are the subject of this application (each, also a ''Fund''). Prior to its reorganization (described below), MSF had eleven investment portfolios, two of which were the subject of the December 19, 2002 application (each, a Portfolio).

2. NLIC was a mutual life insurance company originally chartered by the State of Vermont in 1848. It is now a stock life insurance company, all of the outstanding stock of which is indirectly owned by National Life Holding Company, a mutual insurance holding company, established under Vermont law in 1999. All owners of NLIC contracts, including the Contracts, are voting members of National Life Holding Company. NLIC is authorized to transact life insurance and annuity business in Vermont and in 50 other jurisdictions. For purposes of the Act, NLIC is the depositor and sponsor of the Annuity Account and the Life Account as those terms have been interpreted by the Commission with respect to variable life insurance and variable annuity separate accounts.

3. NLIC established the Annuity Account on November 1, 1996, and the Life Account on February 1, 1985, as segregated investment accounts under Vermont law. Under Vermont law, the assets of each Account attributable to the Contracts through which interests in that Account are issued are owned by NLIC but are held separately from all other assets of NLIC for the benefit of the owners of, and the persons entitled to payment under, those Contracts. Consequently, such assets in each Account equal to the reserves and other liabilities with respect to such Account are not chargeable with liabilities arising out of any other business that NLIC may conduct. Income, gains and losses, realized or unrealized, from assets allocated to each Account are credited to or charged against that Account without regard to the other income, gains or losses of NLIC. Each Account is a ''separate account'' as defined by Rule 0–1(e) under the Act, and is registered with the Commission as an unit investment trust.

4. The Annuity Account is divided into twenty-eight subaccounts. Each subaccount invests exclusively in a corresponding investment portfolio of one of twelve series-type management investment companies. The assets of the Annuity Account support variable annuity contracts, and interests in the Account offered through such contracts have been registered under the Securities Act of 1933 (the ''1933 Act'').

5. The Life Account is divided into eighty-six subaccounts. Each subaccount invests exclusively in shares representing an interest in a corresponding investment portfolio of one of fourteen series-type management investment companies. The assets of the Life Account support variable life insurance contracts, and interests in this Account offered through such contracts

have been registered under the 1933 Act.

6. *Market Street Fund.* MSF was originally incorporated in Maryland on March 21, 1985, but reorganized into a Delaware business trust on January 26, 2001. Until its existence ceased as a result of a reorganization on April 28, 2003, MSF was registered under the Act as an open-end diversified management investment company. MSF was a series investment company as defined by Rule 18f–2 under the Act and comprised eleven investment portfolios. MSF issued a separate series of shares of beneficial interest in connection with each portfolio and had registered these shares under the 1933 Act. Gartmore Mutual Fund Capital Trust (''Gartmore''), served as investment adviser to the MSF Balanced and Bond Portfolios, and selected their subadvisers. The most recent subadviser to the MSF Balanced Portfolio was Fred Alger Management, Inc., and the most recent subadviser to the Bond Portfolio was Western Asset Management Company.

7. The investment objective of the MSF Bond Portfolio was to seek a high level of current income consistent with prudent investment risk. This Portfolio invested in a diversified portfolio of fixed-income securities of U.S. and foreign issuers. The Portfolio's subadviser used active fixed-income management techniques by focusing on four key areas: (1) Sector and sub-sector allocation, (2) issue selection, (3) duration, and (4) term structure.

8. The investment objective of the MSF Balanced Portfolio was to realize as high a level of long-term total rate of return as was consistent with prudent investment risk. The MSF Balanced Portfolio's equity portion was invested primarily in equity securities, such as common or preferred stocks, which were listed on U.S. exchanges or traded in the over-the-counter markets. The Portfolio's subadviser used a growth-oriented strategy. Growth-oriented investments involved seeking securities of issuers with above-average recent earnings growth rates and what the subadviser viewed as a reasonable likelihood of maintaining these rates in the foreseeable future. The subadviser focused on stocks of companies with growth potential and fixed-income securities, with emphasis on income-producing securities that appear to have some potential for capital appreciation. Normally, the Portfolio invested in common stocks and fixed-income securities that included commercial paper and bonds rated within the four highest rating categories by an established rating agency or if not rated, that the subadviser determined were of comparable quality. Ordinarily, at least 25% of the Portfolio's net assets were invested in fixed-income securities.

9. *Gartmore Variable Insurance Trust.* GVIT was organized as a Massachusetts business trust on June 30, 1981. GVIT is registered under the Act as an open-end diversified management investment company. GVIT is a series investment company as defined by Rule 18f–2 under the Act and currently comprises thirty-four investment portfolios. GVIT issues a separate series of shares of beneficial interest in connection with each portfolio and has registered these shares under the 1933 Act. Gartmore serves as investment adviser to the J.P. Morgan GVIT Balanced Fund and Gartmore GVIT Government Bond Fund (''GVIT Government Bond Fund''), and selects their subadvisers. The subadviser to the J.P. Morgan GVIT Balanced Fund is currently J.P. Morgan Investment Management, Inc. Currently, Gartmore does not use a subadviser for the GVIT Government Bond Fund.

10. The investment objective of the GVIT Government Bond Fund is to seek as high a level of income as is consistent with the preservation of capital. The Fund invests in those securities with the highest level of expected income while also minimizing fluctuation in the price of the Fund's shares. Under normal conditions, the GVIT Government Bond Fund invests at least 80% of its net assets in U.S. government and agency bonds, notes, and bills. The Fund also may invest in mortgage-backed securities issued by U.S. government agencies. The Fund's dollar-weighted average maturity is generally five to nine years and its duration four to six years.

11. The investment objective of the J.P. Morgan GVIT Balanced Fund is to seek a high total return from a diversified portfolio of equity and fixed-income securities. Under normal circumstances, the Fund invests at least 50% of its net assets in fixed-income securities (including U.S. government, corporate, mortgage-backed, and asset-backed securities). The equity securities held by the Fund generally are common stocks of large and medium-sized companies included in the S&P 500 Index. The fixed-income securities held by the J.P. Morgan GVIT Balanced Fund are generally investment grade (or unrated securities of comparable quality), although a portion of the Fund's assets are invested in securities rated below investment grade. The Fund does not necessarily sell investment grade securities that are downgraded. The Fund also may invest in debt securities of issuers located in emerging nations or whose securities are traded in emerging securities markets.

12. *Sentinel Variable Products Trust.* SVPT was organized as a business trust in Delaware on March 14, 2000, and is currently registered under the Act as an open-end diversified management investment company. SVPT is a series investment company as defined by Rule 18f–2 under the Act and currently comprises seven investment portfolios, including two new Funds to receive certain of the assets of the GVIT Government Bond Fund and J.P. Morgan GVIT Balanced Fund in the proposed substitution. SVPT will issue a separate series of shares of beneficial interest in connection with each Fund and will register these shares under the 1933 Act. NL Capital Management, Inc. (''NLCM'') will serve as investment adviser to each of the Funds. NLCM is affiliated with NLIC.

13. The investment objective of the SVPT Bond Fund is to seek high current income while seeking to control risk, by investing mainly in investment grade bonds. The Fund will invest exclusively in fixed-income securities. At least 80% of the Fund's assets will normally be invested in the following types of bonds: (1) Corporate bonds which at the time of purchase are rated within the four highest rating categories of Moody's, Standard & Poor's, or any other nationally recognized statistical rating organization, (2) debt securities issued or guaranteed by the U.S. government, its agencies or instrumentalities, including mortgage-backed securities, (3) debt securities (payable in U.S. dollars) issued or guaranteed by Canadian governmental entities, and (4) debt obligations of domestic banks or bank holding companies, even though not rated by Moody's or Standard & Poor's, that NLCM believes have investment qualities comparable to investment grade corporate securities. The remainder of the Fund's assets may be invested in other fixed-income securities, such as straight or convertible debt securities and straight or convertible preferred stocks. The Fund will invest no more than 20% of its total assets in lower quality bonds.

14. The investment objective of the SVPT Balanced Fund is to seek a combination of growth of capital and current income, with relatively low risk and relatively low fluctuations in value. It will seek this goal by investing in common stocks similar to those in the SVPT Common Stock Fund. NLCM tries to select stocks of leading companies that are financially strong and are selling at attractive prices in relation to their values and in investment grade

bonds similar to those in the SVPT Bond Fund, with at least 25% of its total assets in bonds. When determining this percentage, convertible bonds and/or preferred stocks will be considered common stocks, unless these securities are held primarily for income. NLCM will divide the Fund's investments among stocks and bonds based on whether it believes stocks or bonds offer a better value at the time.

15. The Contracts are flexible premium variable life insurance Contracts and individual flexible premium deferred variable annuity Contracts. The Contracts provide for the accumulation of values on a variable basis, fixed basis, or both, during the accumulation period, and provide settlement or annuity payment options on a fixed basis. Under each of the Contracts, NLIC reserves the right to substitute shares of one Fund or Portfolio for shares of another, including a fund or portfolio of a different investment company. The prospectuses for the Contracts disclose this right.

16. Under all of the variable life insurance Contracts, a Contract owner may make unlimited transfers of accumulated value in a contract year between and among the subaccounts of the Life Account and NLIC's general account. Currently there is no charge for transfers; however, NLIC reserves the right to assess a $25 charge for each transfer in excess of twelve in any Contract year. Under the variable annuity Contracts, a Contract owner may make unlimited transfers of Contract value between and among the subaccounts of the Annuity Account and NLIC's general account. Currently there is no charge for transfers; however, NLIC reserves the right to assess a $25 charge for each transfer in excess of twelve in any Contract year.

17. NLIC, on its behalf and on behalf of the Accounts, proposes to substitute shares of the SVPT Bond Fund for shares of the GVIT Government Bond Fund, and shares of the SVPT Balanced Fund for shares of the J.P. Morgan GVIT Balanced Fund. NLIC believes that by making the proposed substitutions in each of the Accounts, they can better serve the interests of owners of the Contracts.

18. During 2000, NLIC and the Accounts applied for and received an order approving a number of substitutions of SVPT Funds for MSF Portfolios. At the time of that application, Sentinel Advisors Company (''SAC'') served as the investment manager and adviser to a number of the MSF Portfolios, including the Bond and Balanced Portfolios. SAC is a general partnership, which at that time was owned and controlled by affiliates of NLIC, Provident Mutual Life Insurance Company (''PMLIC''), and The Penn Mutual Life Insurance Company (''Penn Mutual''). NLIC's affiliate controls the managing general partner and is entitled to a majority of the profits earned by SAC. NLIC, PMLIC, and Penn Mutual are not affiliated persons of each other. Effective June 30, 2002, NLCM (affiliated with NLIC) purchased all the stock of PMLIC's affiliates which owned PMLIC's interests in SAC, and as a result, NLIC's affiliates are now entitled to more than 90% of the profits of SAC. SAC's officers and investment personnel are all employees of NLCM, and they are the same officers and investment personnel who provide investment management services to the SVPT Funds. SAC, like NLCM, is located at NLIC's premises, in Montpelier, Vermont.

19. With the substitutions applied for in the previous order, PMLIC and NLIC intended to end their joint use of MSF as an investment vehicle for both companies' variable life insurance and variable annuity contracts (including the Contracts). NLIC originally intended to substitute independently managed funds for the MSF Bond and Balanced (then Managed) Portfolios, at the time of the substitutions effected in late 2000. However, the available independently managed funds did not meet the conditions that the SEC would impose on the substitutions and SVPT did not have the Bond or Balanced Funds to receive the Accounts' assets in the MSF Bond and Balanced Portfolios. NLIC chose to proceed with the substitutions that the SEC would approve at the time and the Accounts continued to invest in the MSF Bond and Balanced Portfolios.

20. After the initial substitutions, SAC stepped down as investment adviser to all of the MSF Portfolios of which it had been the investment adviser. Market Street Investment Management Company (''MSIM'') became the investment manager to the MSF Portfolios, and selected subadvisers to manage the assets on a day-to-day basis, including Western Asset Management Company for the Bond Portfolio and Fred Alger Management, Inc., for the Balanced Portfolio. New investment advisory contracts were approved by the shareholders, and management fees and overall expense ratios rose significantly.

21. In addition, effective September 30, 2002, PMLIC was acquired by Nationwide Financial Services, Inc. (''Nationwide''), in a sponsored demutualization transaction. PMLIC's name changed to Nationwide Life Insurance Company of America (''NLICA'') as part of this transaction. Also, effective October 1, 2002, Gartmore, an affiliate of Nationwide Financial, replaced MSIM as the MSF investment adviser. NLICA, under Nationwide's control, then proposed another reorganization of MSF, under which the MSF Balanced and Bond Portfolios would be acquired by series of the GVIT Trust, another series investment company offering shares to variable insurance product separate accounts, for which Gartmore also serves as investment adviser. Specifically, the MSF Balanced Portfolio would be acquired by the J.P. Morgan GVIT Balanced Fund, and the MSF Bond Portfolio would be acquired by the GVIT Government Bond Fund. As a result of this proposed reorganization, J.P. Morgan Investment Management, Inc. would be the subadviser of MSF Balanced Portfolio's assets and Gartmore would directly manage the assets of the MSF Bond Portfolio.

22. At a meeting held on February 21, 2003, shareholders of MSF Balanced Portfolio and MSF Bond Portfolio approved the proposed reorganization. The proposed reorganization took place on April 28, 2003. As of April 28, 2003: (1) J.P. Morgan GVIT Balanced Fund succeeded to the assets of MSF Balanced Portfolio, (2) holders of shares of MSF Balanced Portfolio (including the Accounts) had such shares exchanged for shares of J.P. Morgan GVIT Balanced Fund, (3) GVIT Government Bond Fund succeeded to the assets of MSF Bond Portfolio, and (4) holders of shares of MSF Bond Portfolio (including the Accounts) had such shares exchanged for shares of GVIT Government Bond Fund.

23. NLIC continues to desire to end the joint use of the successors to the MSF Portfolios by separate accounts of both companies. NLIC continues to believe that the manner of accomplishing this separation which would involve the least confusion and disruption to owners of the Contracts would be for it to substitute shares of new SVPT Funds for those of the successors to the MSF Bond and Balanced Portfolios held by the Accounts. This would avoid the possibility that GVIT may propose future changes that NLIC could not support. Such a disagreement could create unnecessary expense and confusion for owners of both the Contracts and NLICA contracts, and could result in one or more material irreconcilable conflicts between the interests of Contract owners and owners of NLICA contracts. NLIC had no role in the selection of the most recent subadvisers to the MSF Balanced and Bond Portfolios, no role in planning the

reorganization of MSF initiated by NLICA, and does not anticipate that it would have any role in future decisions relating to the GVIT Government Bond Fund or the J.P. Morgan GVIT Balanced Fund.

24. Prior to the April 28, 2002 reorganization, the majority of the assets in the MSF Bond and Balanced Portfolios belonged to owners of variable annuity and variable life insurance contracts issued by NLICA and its affiliates and only relatively small portions of each consisted of assets beneficially owned by owners of the Contracts.

Portfolios	Approximate percent represented by NLIC contracts	Approximate percent represented by contracts issued by NLICA or its affiliates
MSF Bond	24.5	75.5
MSF Balanced	16.1	83.9

25. NLIC believes that many of the owners of the Contracts who invested in the MSF Bond and Balanced Portfolios did so at the time these Portfolios were managed by SAC, and that most would prefer to invest in funds or portfolios selected by NLIC and over which NLIC has some influence.

26. Because the MSF Bond and Balanced Portfolios were only very recently reorganized into the GVIT Government Bond Fund or the J.P. Morgan GVIT Balanced Fund, Applicants believe that it is appropriate to compare and contrast the SVPT Bond and Balanced Funds with the MSF Bond and Balanced Portfolios. For the reasons explained below, Applicants assert that owners of the Contracts will be better off invested in the SVPT Bond and Balanced Funds than they would have been in the corresponding MSF Funds.

27. Projected expense levels for the SVPT Bond and Balanced Funds are the same as those recently experienced by the MSF Bond and Balanced Portfolios because each SVPT Fund will be capped by NLIC for two years at levels equal to the percentage expense levels experienced by its corresponding MSF Portfolio for the 2002 fiscal year. Likewise, the management fee rates (including breakpoints) of the SVPT Bond and Balanced Funds are the same as that of their corresponding MSF Portfolios. In addition, for those Contract owners who were Contract owners on the date of the proposed substitutions, NLIC will not increase Account or other asset-based expenses under the Contracts for a period of 24 months following the date of the proposed substitutions.

28. The projected expense levels for the SVPT Bond and Balanced Funds are substantially lower than those recently experienced by, or currently anticipated for, the J.P. Morgan GVIT Balanced Fund and the GVIT Government Bond Fund. Therefore, from an expense perspective, Contract owners will be substantially better off invested in the SVPT Bond Fund or Balanced Fund than they would be in the J.P. Morgan GVIT Balanced Fund or the GVIT Government Bond Fund.

29. NLIC notes that the equity portion of the SVPT Balanced Fund would be managed in a different style from that recently employed by the MSF Balanced Portfolio, utilizing a more value-oriented style similar to that employed by Sentinel Balanced Fund, as contrasted with the more growth-oriented style employed by Fred Alger Management. The J.P. Morgan GVIT Balanced Fund does not lean towards either a growth-oriented or a value-oriented investment style with regard to the equity portion of its portfolio. In this respect, it differs somewhat from both the MSF Balanced Portfolio and the SVPT Balanced Fund. NLIC expects that the fixed-income portion of the SVPT Balanced Fund would be comparable to the fixed-income portion of the MSF Balanced Portfolio, as managed before April 28, 2003. However, the J.P. Morgan GVIT Balanced Fund differs from both the MSF Balanced Portfolio and the SVPT Balanced Fund in that the fixed-income portion of the J.P. Morgan GVIT Balanced Fund has greater flexibility to invest in lower quality debt instruments and emerging market securities. NLIC also notes that it already has available to the Accounts three equity portfolios managed by Fred Alger Management, the Alger American Growth Portfolio, the Alger American Leveraged AllCap Portfolio, and the Alger American Small Capitalization Portfolio. As a result, any Contract owners who wish to invest a portion of their Contract value using Alger's equity investment style would be able to do so by allocating assets to one of these investment choices.

30. NLIC expects that the SVPT Bond Fund would be similar in investment style and categories of investments to the MSF Bond Portfolio as recently operated, and certainly similar to the MSF Bond Portfolio as managed by SAC prior to 2001. In contrast, the Gartmore GVIT Government Bond Fund is limited to investments in U.S. government and agency bonds, bills, and notes, while the SVPT Bond Fund would (as did the MSF Bond Portfolio) be able to invest in investment grade corporate issuers.

31. As the two new SVPT Portfolios will initially be relatively small in size (the SVPT Bond Fund is expected to initially have net assets of approximately $19 million, and the SVPT Balanced Fund is expected to initially have net assets of approximately $12 million), NLIC does not anticipate earning material profits from the management of these assets in the first few years after the proposed substitutions. Rather, its motivation is to complete the termination of the joint use of the MSF Portfolios (now GVIT Funds) which it initially sought in 2000, and to regain a level of control over its Contract owner assets which it lost as its joint venture with PMLIC ended.

32. In light of the significant beneficial ownership position of NLICA (and affiliate) contract owners, Contract owners and future NLIC contract owners cannot expect to command an influential (much less a majority) voting position in either of the GVIT Bond or Balanced Funds in the event that they, as a group, desire that such a Fund move in a direction different from that generally desired by owners of NLICA (or its affiliates') contracts. In addition, unless the growth in the number of Contracts or the assets supporting them increases at a much greater rate than those of similar contracts issued by NLICA and its affiliates, owners of Contracts have no prospects of ever gaining a position capable of influencing the future direction of these Funds.

33. NLIC also notes that it has had no prior business relationship with Nationwide, which now controls NLICA, or with Gartmore, the investment advisor to J.P. Morgan GVIT Balanced Fund and GVIT Government Bond Fund. NLIC has never selected a Nationwide-controlled entity to provide investment advisory services to its Contract owners, and while it has no particular problem with Nationwide, NLIC believes that it should not be forced into a position of offering investment portfolios managed by Nationwide-affiliated entities simply because Nationwide has acquired PMLIC.

34. The following charts show the approximate year-end size (in net assets), expense ratio (ratio of operating expenses as a percentage of average net assets), and annual total returns for each of the past three years for each of the Funds and Portfolios involved in the proposed substitutions.

SVPT Bond Fund	Anticipated net assets after substitution (in millions)	Anticipated expense ratio after substitution	Total return
	$19	0.67%	N/A
MSF Bond Portfolio	Net assets at Year-End (in millions)	Expense ratio	Total return
2000	$39.0	0.52%	9.68%
2001	$53.4	0.67%	7.40%
2002	$67.0	0.67%	9.09%
GVIT Government Bond Fund	Net assets at year-end (in millions)	Expense ratio	Total return
2000	$867	0.73%	12.54%
2001	$1,301	0.73%	7.25%
2002	$1,983	0.73%	10.98%
SVPT Balanced Fund	Anticipated net assets after substitution (in millions)	Anticipated expense ratio after substitution	Total return
	$12	0.79%	N/A
MSF Balanced Portfolio	Net assets at year-end (in millions)	Expense ratio	Total return
2000	$71.5	0.57%	8.75%
2001	$69.0	0.82%	(7.02)%
2002	$58.4	0.79%	(10.26)%
J.P. Morgan GVIT Balanced Fund	Net assets at year-end (in millions)	Expense ratio	Total return
2000	$113	1.07%	(0.35)%
2001	$150	1.03%	(3.77)%
2002	$147	1.00%	(12.31)%

35. The following charts show the approximate annual management fees, other expenses and total expenses of each of the Funds or Portfolios involved in the proposed substitutions both before and after any reimbursement or fee waivers. The management fees and expenses shown for the MSF Bond and Balanced Portfolios and for the GVIT Government Bond and J.P. Morgan GVIT Balanced Funds are for the last complete fiscal year, 2002.

Fund	Before reimbursement or fee waiver	After reimbursement or fee waiver	Revenue sharing percentage
MSF Bond	0.40%	0.40%	N/A
	0.29%	0.27%	
	0.69%	0.67%	
GVIT Government Bond	0.49%	0.49%	N/A
	0.24%	0.24%	
	0.73%	0.73%	
SVPT Bond	0.40%	0.40%	N/A
	0.29%	0.27%	
	0.69%	0.67%	
MSF Balanced	0.55%	0.55%	N/A
	0.27%	0.24%	
	0.82%	0.79%	

Fund	Before reimbursement or fee waiver	After reimbursement or fee waiver	Revenue sharing percentage
J.P. Morgan GVIT Balanced	0.73% 0.27%	0.73% 0.26%	N/A
	1.00%	0.99%	
SVPT Balanced	0.55% 0.32%	0.55% 0.24%	N/A
	0.87%	0.79%	

36. By disclosure in supplements to the various May 1, 2002 prospectuses for the Contracts and the Accounts and similar disclosure in May 1, 2003 prospectuses, all owners of the Contracts have been notified of NLIC's intention to take the necessary actions, including seeking the order requested by this application, to substitute shares of the SVPT Bond and Balanced Funds for shares of the GVIT Government Bond Fund and the J.P. Morgan GVIT Balanced Fund as described herein.

37. The supplement and prospectus disclosure about the proposed substitutions advises, (and any subsequent supplements will advise), Contract owners that from the date of the supplement or prospectus until the date of the proposed substitution, owners are permitted to make one transfer of all amounts under a Contract invested in either of the affected subaccounts to another subaccount available under a Contract other than one of the other affected subaccounts without that transfer counting as a ''free'' transfer permitted under a Contact. The supplement and prospectus disclosure also informs (and any subsequent supplements will inform) Contract owners that NLIC will not exercise any rights reserved under any Contract to impose additional restrictions on transfers until at least 30 days after the proposed substitutions. The supplements and prospectuses also advise, and will advise, Contract owners that if the proposed substitutions are carried out, then each Contract owner affected by a substitution will be sent a written notice (described below) informing them of the fact and details of the substitutions.

38. The proposed substitutions will take place at relative net asset value with no change in the amount of any Contract owner's account value or death benefit or in the dollar value of his or her investment in any of the Accounts. Contract owners will not incur any fees or charges as a result of the proposed substitutions, nor will their rights or NLIC's obligations under the Contracts be altered in any way. All applicable expenses incurred in connection with the proposed substitutions, including brokerage commissions, legal, accounting and other fees and expenses, will be paid by NLIC. In addition, the proposed substitutions will not impose any tax liability on Contract owners. The proposed substitutions will not cause the Contract fees and charges currently being paid by existing Contract owners to be greater after the proposed substitutions than before the proposed substitutions.

39. The proposed substitutions will not, of course, be treated as a transfer of Contract value or an exchange of annuity units for the purpose of assessing transfer charges or for determining the number of remaining ''free'' transfers or exchanges in a Contract year. NLIC will not exercise any right it may have under the Contracts to impose restrictions on or charges for Contract value transfers or annuity unit exchanges under the Contracts for a period of at least 30 days following the substitutions. One exception to this is that NLIC may impose restrictions on transfers to prevent or limit ''market timing'' activities by Contract owners or agents of Contract owners.

40. NLIC will permit Contract owners to make one transfer of Contract value (or annuity unit exchange) out of the GVIT Government Bond Fund subaccount to another subaccount, and out of the J.P. Morgan GVIT Balanced Fund subaccount to another subaccount, without the transfer (or exchange) being treated as one of a limited number of transfers (or exchanges) permitted without a transfer charge. Likewise, for at least 30 days following the proposed substitutions, NLIC will permit Contract owners affected by the substitutions to make one transfer of Contract value (or annuity unit exchange) out of the SVPT Bond Fund subaccount to another subaccount, and out of the SVPT Balanced Fund subaccount to another subaccount, without the transfer (or exchange) being treated as one of a limited number of transfers (or exchanges) permitted without a transfer charge. All Contract owners, even those who are ''market timers,'' may avail themselves of the ''free'' transfer privilege both before and after the proposed substitutions.

41. To the extent that the annualized expenses of the SVPT Bond and Balanced Portfolios exceeds, for each fiscal period (such period being less than 90 days) during the twenty-four months following the substitutions, the 2002 net expense level of the MSF Bond and Balanced Portfolios, NLIC will, for each Contract outstanding on the date of the proposed substitutions, make a corresponding reduction in separate account (or subaccount) expenses on the last day of such fiscal period, such that the amount of the SVPT Balanced and Bond Portfolios' net expenses, together with those of the corresponding separate account (or subaccount) will, on an annualized basis, be no greater than the sum of the net expenses of the MSF Balanced and Bond Portfolios and the expenses of the separate account (or subaccount) for the 2002 fiscal year. In addition, for twenty-four months following the substitutions, NLIC will not increase asset-based fees or charges for Contracts outstanding on the day of the proposed substitutions.

42. In addition to the prospectus disclosure (and supplements) distributed to owners of Contracts, within five days after the proposed substitutions, any Contract owners who were affected by the substitution will be sent a written notice informing them that the substitutions were carried out and that they may make one transfer of all accumulation or contract value under a Contract invested in any one of the affected subaccounts on the date of the notice to another subaccount available under their Contract without that transfer counting as one of a limited number of transfers permitted in a Contract year free of charge. The notice will also reiterate the fact that NLIC will not exercise any rights reserved by it under any of the Contracts to impose additional restrictions on transfers until at least 30 days after the proposed substitutions. The notice as delivered in

certain states also may explain that, under the insurance regulations in those states, Contract owners who are affected by the substitutions may exchange their Contracts for fixed-benefit life insurance contracts or annuity contracts, as applicable, issued by NLIC during the 60 days following the proposed substitutions. Current prospectuses for the new Funds will precede or accompany the notices.

43. NLIC also is seeking approval of the proposed substitutions from any state insurance regulators whose approval may be necessary or appropriate.

Applicants' Legal Analysis

1. The proposed substitutions appear to involve substitutions of securities within the meaning of section 26(c) of the Act.

2. The Contracts expressly reserve for NLIC the right, subject to compliance with applicable law, to substitute shares of one Portfolio or Fund held by a subaccount of an Account for another. Applicants state that NLIC reserved this right of substitution both to protect themselves and their Contract owners in situations where either might be harmed or disadvantaged by circumstances surrounding the issuer of the shares held by one or more of their separate accounts and to afford the opportunity to replace such shares where to do so could benefit itself and Contract owners.

3. In the case of the proposed substitutions, the GVIT Funds would be replaced by funds with substantially similar investment objectives to those of the MSF Portfolios, and management would return to the investment management team which managed the MSF Portfolios prior to the reorganization in late 2000 (in the case of many of the Contract owners, the management team that was in place at the time they made the decision to allocate Contract value to the MSF Portfolios). The substitutions would also prevent Contract owners from being affected by any additional changes of GVIT as it evolves under Nationwide's management.

4. In addition to the foregoing, Applicants generally submit that the proposed substitutions meet the standards that the Commission and its staff have applied to similar substitutions that have been approved in the past.

5. Applicants anticipate that Contract owners will be at least as well off with the proposed array of subaccounts offered after the proposed substitutions as they have been with the array of subaccounts offered prior to the substitutions. The proposed substitutions retain for Contract owners the investment flexibility which is a central feature of the Contracts. If the proposed substitutions are carried out, all Contract owners will be permitted to allocate purchase payments and transfer accumulated values and contract values between and among the same number of subaccounts as they could before the proposed substitutions.

6. Applicants argue that each of the proposed substitutions is not the type of substitution which section 26(c) was designed to prevent. Unlike traditional unit investment trusts where a depositor could only substitute an investment security in a manner which permanently affected all the investors in the trust, the Contracts provide each Contract owner with the right to exercise his or her own judgment and transfer accumulation and contract values into other subaccounts. Moreover, the Contracts will offer Contract owners the opportunity to transfer amounts out of the affected subaccounts into any of the remaining subaccounts without cost or other disadvantage. The proposed substitutions, therefore, will not result in the type of costly forced redemption which section 26(c) was designed to prevent.

7. In addition, Applicants argue that the proposed substitutions are unlike the type of substitution which section 26(c) was designed to prevent in that by purchasing a Contract, Contract owners select the specific type of insurance coverage offered by NLIC under their Contract as well as numerous other rights and privileges set forth in the Contract. Therefore, Applicants contend that Contract owners may also have considered NLIC's size, financial condition, type, and its reputation for service in selecting their Contract. These factors will not change as a result of the proposed substitutions.

8. Applicants submit that, for all the reasons stated above, the proposed substitutions are consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–17919 Filed 7–15–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27696]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

July 9, 2003.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by August 4, 2003 to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After August 4, 2003, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

KeySpan Energy Canada Partnership, et al. (70–10126)

KeySpan Energy Canada Partnership (''KECP'') and KeySpan Energy Facilities Limited (''KEFL''), both located at 1700, 400 Third Avenue, SW Calgary, Alberta, Canada T2P 4H2 (together, the ''Applicants''), nonutility subsidiaries of KeySpan Corporation, a registered holding company under the Act, located at One MetroTech Center, Brooklyn, New York 11201, have filed an application-declaration (''Application'') under sections 9(a) and 10 of the Act and rule 54.

Background

KECP and KEFL, seek authorization for KECP and/or KEFL to acquire voting securities of Rimbey Pipe Line Co. Ltd. (''Rimbey Co.''), pursuant to a Letter Purchase Agreement dated February 6, 2003, as amended April 3, 2003 (the

''Transaction''). KECP and KEFL are indirect, wholly-owned nonutility subsidiaries of KeySpan Corporation (''KeySpan''), a registered holding company under the Act.

KeySpan registered as a holding company under the Act on November 8, 2000, as a result of KeySpan's acquisition of Eastern Enterprises (now known as KeySpan New England, LLC (''KNE LLC''), which was authorized by the Commission by an order issued on November 7, 2000 (Holding Company Act Rel. No. 27271), as corrected by the order issued on December 1, 2000 (collectively, the ''Merger Order'').[1] In addition, on November 8, 2000, the Commission issued an order (Holding Company Act Rel. No. 27272), as corrected by the order issued on December 1, 2000 (collectively, the ''Financing Order''), authorizing a program of external financings, credit support arrangements and related proposals for KeySpan and its subsidiaries.

KeySpan is a diversified public-utility registered holding company. KeySpan directly or indirectly owns seven public-utility companies in the northeastern United States.[2] In addition, since October 2000, KECP, an Alberta, Canada general partnership, and KEFL, an Alberta, Canada corporation (formerly known as Gulf Midstream Services Partnership and GMS Facilities Limited, respectively), have been indirect, wholly-owned subsidiaries of KeySpan. In the Merger Order, the Commission approved KeySpan's retention of KECP and KEFL, finding that these entities are engaged in ''gas-related activities'' within the meaning of the Gas-Related Activities Act of 1990.

Together, KECP and KEFL own facilities located in Alberta and Saskatchewan through which they operate one of the largest natural gas midstream businesses in Canada, consisting of natural gas gathering and processing as well as natural gas liquids (''NGL'') processing, transportation, storage and marketing. KECP markets natural gas products, including natural gas liquids, from numerous producers, to customers in the United States and Canada. KECP owns interests in 13 natural gas processing plants, along with associated raw gas gathering facilities, and is the operator of 11 of those plants. It also owns interests in NGL fractionation and storage facilities and an NGL pipeline. KEFL owns interests in NGL fractionation and storage facilities. KECP and KEFL together provide gas gathering and processing services to approximately 160 producers.

KEFL also currently owns 40.6% of the issued and outstanding shares of Rimbey Co.,[3] and operates the facilities owned by Rimbey Co. Rimbey Co. is an Alberta, Canada corporation with a total of 9 shareholders, of which KEFL is the largest.[4] Rimbey Co. owns the Rimbey Pipe Line, a 110 kilometer NGL pipeline, and the Rimbey Edmonton Terminal, which consists of propane treating, storage, rail loading and truck loading/offloading facilities.

In connection with its business, KECP is a party to two agreements with ConocoPhillips Canada Resources Corp. (''ConocoPhillips Resources''): a Buy-Sell Agreement dated December 1, 1998, as amended (the ''Buy-Sell Agreement''), and a Natural Gas Liquids Purchase and Sale Agreement also dated December 1, 1998, as amended (the ''Purchase and Sale Agreement'' and together with the Buy-Sell Agreement, the ''NGL Agreements''). Pursuant to the Buy-Sell Agreement, KECP purchases raw natural gas from ConocoPhillips Resources at the inlet points to certain gas processing facilities owned by KECP, processes the gas on behalf of ConocoPhillips Resources and resells the processed gas and certain gas products (exclusive of certain NGLs which are retained by KECP) to ConocoPhillips Resources at the outlet points of the relevant facilities. Under the Purchase and Sale Agreement, ConocoPhillips Resources sells NGLs to KECP at the outlet points of certain natural gas processing facilities, some of which are not owned by KECP and at which KECP does not provide processing services for ConocoPhillips Resources.

KECP and ConocoPhillips Resources have recently agreed to enter into an Amending Agreement which will revise certain price terms of each of the NGL Agreements. Consideration for KECP's entry into such Amending Agreement is, among other things, the entry into by KECP and ConocoPhillips Canada Limited (''ConocoPhillips'')[5] a February 6, 2003 Letter Purchase Agreement, amended April 1, 2003, by which ConocoPhillips will transfer 2,610 shares of Rimbey Co. (representing 5.2% of issued and outstanding shares) currently held by ConocoPhillips (the ''Rimbey Shares'') to KECP subject to certain conditions described below.

KECP and ConocoPhillips have agreed that the cash value of the consideration for the Amending Agreement associated with the transfer of the Rimbey Shares is $2.25 million Canadian. The proposed transfer of the Rimbey Shares to KECP is subject to the preferential rights of the other Rimbey Co. shareholders to purchase the shares (''Right of First Refusal'') at the same aggregate price of $2.25 million Canadian. KEFL, as a current shareholder of Rimbey Co., has and could exercise a Right of First Refusal.

ConocoPhillips' transfer of the Rimbey Shares to KECP is conditioned upon (i) the failure of other Rimbey Co. shareholders to exercise their Rights of First Refusal and (ii) receipt of the approval by the Commission sought in this Application.

The Proposed Transaction

Applicants now seek authorization for either (a) the acquisition by KECP of the

[1] On May 29, 2002, the Commission issued an order approving KeySpan and Eastern Enterprises' application in File No. 70–9995 (Holding Co. Act Rel. No. 27532) for a reorganization of Eastern from a Massachusetts business trust to a Massachusetts limited liability company (''Conversion Order''). Pursuant to the Conversion Order, on May 31, 2002, Eastern and KNE LLC, a newly formed Massachusetts limited liability company subsidiary of KeySpan, executed an agreement and plan of merger, with KNE LLC as the surviving entity and successor-by-merger to Eastern Enterprises.

[2] The Brooklyn Union Gas Company, d/b/a KeySpan Energy Delivery New York, distributes natural gas at retail to residential, commercial and industrial customers in the New York City Boroughs of Brooklyn, Staten Island and Queens; KeySpan Gas East Corporation, d/b/a KeySpan Energy Delivery LI, distributes natural gas at retail to customers in New York State located in the counties of Nassau and Suffolk on Long Island and the Rockaway Peninsula in Queens County; KeySpan Generation LLC owns and operates electric generation capacity located on Long Island that is sold at wholesale to the Long Island Power Authority; Boston Gas Company, d/b/a KeySpan Energy Delivery New England, distributes natural gas to customers located in Boston and other cities and towns in eastern and central Massachusetts; Essex Gas Company, d/b/a KeySpan Energy Delivery New England, distributes natural gas to customers in eastern Massachusetts; Colonial Gas Company, d/b/a KeySpan Energy Delivery New England, distributes natural gas to customers located in northeastern Massachusetts and on Cape Cod; and EnergyNorth Natural Gas, Inc., d/b/a KeySpan Energy Delivery New England, distributes natural gas to customers located in southern and central New Hampshire and the City of Berlin located in northern New Hampshire. KeySpan, through its subsidiaries, also engages in energy related nonutility activities.

[3] KEFL acquired these shares in 1998, prior to KeySpan's registration as a holding company. KEFL's ownership interest in Rimbey Co. is an interest in ''natural gas liquids transportation facilities,'' *i.e.*, the Rimbey Pipe Line, Rimbey Co.'s primary asset.

[4] KEFL currently owns 20,303 shares (40.6%) of Rimbey Co. The other shareholders and their shareholdings are: EnerPro Midstream Inc.—17,766 shares (35.5%); Shell Canada Limited—4,320 shares (8.6%); ConocoPhillips Canada Limited—2,610 shares (5.2%); Husky Oil Operations Ltd.—2,312 shares (4.6%); Imperial Oil Limited—1,287 shares (2.6%); BP Canada Energy Resources Company—1,194 shares (2.4%); Murphy Oil Company Ltd.—135 shares (0.35%); and The Great West Life Assurance Co.—73 shares (0.15%).

[5] ConocoPhillips is an existing Rimbey Co. shareholder and an affiliate of ConocoPhillips Resources. *See* note 4, *supra.*

Rimbey Shares from ConocoPhillips pursuant to the Letter Purchase Agreement and amending agreement or (b) the acquisition by KEFL of the Rimbey Shares (or its proportionate share thereof, if other shareholders also exercise their Rights of First Refusal) as a result of the exercise by KEFL, as a current Rimbey Co. shareholder, of its Right of First Refusal to purchase the Rimbey Shares in preference to their sale by ConocoPhillips to KECP. Authorization is sought in the alternative because, while the parties currently contemplate that KECP will acquire the Rimbey Shares as set forth in the Letter Purchase Agreement, KECP and KEFL may determine that it is appropriate for KEFL to acquire the shares by exercise of its Right of First Refusal either to consolidate shareholdings in Rimbey Co. in one entity or to protect against the acquisition of all of the Rimbey Shares by other Rimbey Co. shareholders (by virtue of the exercise of their Rights of First Refusal).

As noted above, the parties have agreed that the cash value of the Rimbey Shares is $2.25 million Canadian. At the generally prevailing exchange rate of approximately $0.69, that equates to a value of approximately $1.55 million in U.S. dollars. After consummation of the transaction, and assuming that no other Rights of First Refusal are exercised, KEFL and/or KECP together would own a total of 22,913 shares (or 45.8% of issued and outstanding shares) in Rimbey Co., an increase of 2,610 shares (or 5.2%) over KEFL's existing ownership share of Rimbey Co.

KeySpan Corporation, et. al. (70–10136)

KeySpan Corporation (''KeySpan''), KeySpan Energy Corporation (''KeySpan Energy''), KeySpan Services, Inc. (''KSI''), KeySpan Business Solutions, Inc. (''KeySpan Business Solutions'') and Paulus, Sokolowski and Sartor LLC (''PS&S'') (collectively, the ''Applicants''), each at 201 Old Country Road, Suite 300, Melville, New York, 11747 have filed a declaration with the Commission under sections 9(a) and 10 of the Act and rule 54 under the Act.

KeySpan is a registered holding company under the Act.[6] KeySpan Energy is a direct wholly-owned subsidiary of KeySpan. KSI is a direct, wholly-owned nonutility subsidiary of KeySpan Energy. KeySpan Business Solutions is a direct wholly-owned subsidiary of KSI. PS&S is a direct, wholly-owned nonutility subsidiary of KeySpan Business Solutions. PS&S proposes to acquire all of the issued and outstanding stock of Bard, Roa + Athanas Consulting Engineers, Inc. (''BR+A''), an unaffiliated Massachusetts corporation (the ''Transaction'').

By order dated April 24, 2003, the Commission released jurisdiction over the retention by KSI of certain nonutility subsidiaries.[7] These subsidiaries engage in energy-related activities that have been found retainable under rule 58 of the Act or Commission precedent. In the KeySpan Order, the Commission authorized KSI, over the next five years, either on a stand alone basis or through other methods, to increase the percentage of energy-related revenues of PS&S so that its revenues are substantially energy-related as defined by Commission rule and/or precedent.

Applicants submit that the purpose of the Transaction is to increase the percentage of energy-related revenues of PS&S and its subsidiaries, consistent with the KeySpan Order. Applicants represent that, based on historical data, subsequent to the Transaction, the percentage of energy-related engineering revenues for KSI subsidiaries would be increased from 65% to approximately 81% of total business revenues. In addition, the Applicants state that consummation of the Transaction will produce tangible benefits to the public, investors and consumers by adding to the KeySpan system's ability to compete with exempt holding company systems in the electric and/or gas utility industry, as well as nonutility companies engaged in similar lines of energy-related businesses, and enhance the ability of PS&S to obtain new clients in the energy sector within KeySpan's existing geographic footprint.

KSI is the holding company of KeySpan's interests in a number of nonutility, ''energy-related'' companies as such term is defined in rule 58(b)(1) of the Act or pursuant to Commission precedent. PS&S is one such energy-related subsidiary company engaged in the business of engineering and consulting services relating to the design and permitting of energy management systems, office environments and equipment installations and modifications. PS&S' clients consist primarily of large industrial customers such as utilities, corporate offices, hotels, laboratories, warehouses, pharmaceutical companies, hospitals, universities and power plants primarily located in New York, Pennsylvania and New Jersey. PS&S also serves as a general environmental and engineering consultant to major utility companies in New Jersey.

Applicants indicate that BR+A is an unaffiliated Massachusetts corporation in the business of providing engineering services primarily related to the: (1) Mechanical, electrical and plumbing components of heating, ventilating and air conditioning systems; (2) design, construction, installation, maintenance and service of new and retrofit heating, ventilating, and air conditioning, electrical and power systems, motors, pumps, lighting, water, and plumbing systems for non-associated industrial and commercial customers; and (3) sale, installation and servicing of electric and gas appliances. BR+A's principal office and operating location is in Boston, Massachusetts and the majority of its clients are based in the Northeast. BR+A also maintains sales and field support offices in New York, Philadelphia, Baltimore, Chicago and Los Angeles.

PS&S intends to acquire all of the issued and outstanding shares of BR+A common stock from its ten individual shareholders who collectively own 100% of BR+A. The acquisition of BR+A will be undertaken pursuant to the terms of a stock purchase agreement (the ''Agreement''). Pursuant to the Agreement, BR+A will be purchased for: (1) $32 million in cash, with an additional $3 million to be deposited into an escrow account and held for adjustment based on a subsequent determination of whether BR+A has met certain financial criteria at the time of closing, and (2) payment of up to $14.7 million in contingent consideration, subject to BR+A's performance in meeting certain target levels of net operating earnings (excluding interest income) before payment of interest and income taxes, depreciation and amortization for the years 2003 to 2008. Subsequent to the consummation of the acquisition, BR+A will become a direct, wholly-owned subsidiary of PS&S and will be converted to a limited liability company.

PS&S will obtain the funds necessary to complete the Transaction from two sources. Thirty-five percent of the purchase price will be obtained from a loan from KeySpan to KSI to KeySpan Business Solutions to PS&S. The loan will have a maturity equal to the estimated useful life-span of the long-lived assets acquired in the Transaction. The interest rate on the loan will match the interest rate being paid by KeySpan

[6] KeySpan, a New York corporation, was formed in May 1998 as a result of the business combination of KeySpan Energy Corporation, the parent of Brooklyn Union Gas Company, and certain businesses of the Long Island Lighting Company. KeySpan owns six natural gas public utility companies, one electric public utility company and various other non-utility companies.

[7] *See KeySpan Corporation, et al.*, Holding Company Act Rel. No. 27670 (April 24, 2003) (''KeySpan Order'').

on already existing debt with a similar maturity. The balance of the funds needed by PS&S to complete the Transaction will be obtained from a capital contribution from KeySpan to KeySpan Energy to KSI to KeySpan Business Solutions to PS&S.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–17920 Filed 7–15–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48142; File No. SR–CBOE–2002–36]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change Relating to Closing-Only Transactions

July 9, 2003.

On June 27, 2002, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change. On April 2, 2003, the CBOE filed Amendment No. 1 that entirely replaced the original rule filing.[3] On April 21, 2003, the Exchange's rule proposal was published for comment in the **Federal Register**, as amended.[4] No comments letters were received on the proposal. This order approves the proposed rule change.

CBOE proposes to amend Exchange Rule 5.4 regarding its procedures for limiting transactions in options that have closing-only restrictions. Currently, the Exchange has the authority to prohibit an opening purchase transaction in an option, but must seek approval through the Office of the Chairman. The proposal would change this procedure by granting two floor officials, in consultation with a designated senior executive officer of the Exchange, the authority to prohibit opening purchase transactions for equity options whenever the Exchange has determined that an underlying security previously approved for Exchange option transactions does not meet the current requirements for continuance of such approval. In addition, the proposal would permit certain specific types of opening transactions by members to accommodate the closing transactions of other market participants. In particular, the Exchange proposes to permit: (i) Opening transactions by market-makers executed to accommodate closing transactions of other market participants and (ii) opening transactions by CBOE member organizations to facilitate the closing transactions of public customers executed as crosses pursuant to and in accordance with CBOE Rule 6.74(b) or (d) (Crossing Orders).

The Exchange also proposes similar procedural changes to Interpretations and Policies .05 (to lift restrictions on opening transactions if the underlying security, which previously did not meet the Exchange's listing standards, again meets the Exchange's listing standards), .08 (for securities consisting of shares or other securities that represent interests in registered investment companies organized as open-end management investment companies, unit investment trusts or similar entities) and .09 (for Trust Issued Receipts).

Finally, the CBOE proposes to add Interpretation and Policy .11 under CBOE Rule 8.51 regarding the implementation of non-firm mode for options that are restricted to closing-only transactions. When a series or class of option is in non-firm mode, CBOE Rule 8.51(e)(4) requires the DPM and floor officials to review and reaffirm the condition of the market every 30 minutes. The proposal would provide an exception to this requirement in situations when opening transactions have been prohibited in an option and the underlying security has been delisted, and is subsequently traded on the OTC Bulletin Board, Pink Sheets or a similar trading system. Under these circumstances, the Exchange would monitor the activity or condition of the market and the DPM and floor officials would not be required to review and reaffirm the market conditions causing the non-firm mode designation every 30 minutes.

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[5] and, in particular, the requirements of section 6 and the rules and regulations thereunder.[6] Specifically, the Commission believes the proposal is consistent with the section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest. In particular, the Commission believes that these procedural changes should promote efficiency regarding transactions in options that have closing-only restrictions. Further, the Commission believes that the proposal should provide a more efficient process for monitoring market conditions in options classes for which opening transactions have been restricted when the underlying security is delisted.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[7] that the proposed rule change (File No. SR–CBOE–2002–36) is hereby approved, as amended.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–17923 Filed 7–15–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48148; File No. SR–NQLX–2003–05]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by Nasdaq Liffe Markets, LLC to Remove Rule 903(c)(7) From the Maintenance Listing Standards and To Add Rule 408(e) Relating to the Clearing Account Indicator

July 9, 2003.

Pursuant to section 19(b)(7) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–7 under the Act,[2] notice is hereby given that on June 20, 2003, Nasdaq Liffe Markets, LLC (''NQLX'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule changes described in Items I, II, and III below, which Items have been prepared by the NQLX. The Commission is publishing this notice to solicit comments on the proposed rule changes

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Andrew Spiwak, Director Legal Division and Chief Enforcement Attorney, CBOE, to John Roeser, Special Counsel, Division of Market Regulation, Commission, dated April 1, 2003.

[4] *See* Securities Exchange Act Release No. 47659 (April 10, 2003), 68 FR 19588.

[5] In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78f.

[7] 15 U.S.C. 78s(b)(2).

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(7).

[2] 17 CFR 240.19b–7.

from interested persons. On June 19, 2003, NQLX filed the proposed rule change with the Commodity Futures Trading Commission (''CFTC''), together with a written certification under section 5c(c) of the Commodity Exchange Act [3] (''CEA'') in which NQLX indicated that the effective date of the proposed rule change would be June 27, 2003.

I. Self-Regulatory Organization's Description of the Proposed Rule Change

First, NQLX proposes removing NQLX Rule 903(c)(7) because the provision should have been removed as no longer relevant when previous rule modifications were made and filed with the SEC concerning NQLX's maintenance listing standards for security futures on single securities other than shares of exchange-traded funds, shares of registered closed-end management investment companies, or trust-issued receipts.[4] Second, NQLX proposes adding new NQLX Rule 408(e) which would require a member or person associated with a member to timely provide the appropriate clearing account indicator for a trade through NQLX's post trade registration system if the member or person associated with the member fails to provide the appropriate clearing account indicator at the time of order entry.

The text of the proposed rule change appears below. New text is in *italics.* Deleted text is in brackets.

* * * * *

Rule 408 Submitting Orders

(a)–(d) No change.

(e) If at the time of Order entry the Member or Person Associated with the Member fails to provide the appropriate Clearing Account Indicator as required by Rules 408(c)(6) and (d), then the Member or Person Associated with the Member must timely provide the appropriate Clearing Account Indicator for the trade through the Trade Registration System.

* * * * *

Rule 903 Maintenance Listing Standards: Physically-Settled Security Futures Contracts

(a)–(b) No change.

(c) Maintenance Standards-Underlying Securities are Single Securities Other than Shares of Exchange-Traded Funds, Shares of Registered Closed-End Management Investment Companies, or Trust-Issued Receipts: When the underlying of a physically-settled Security Futures Contract is a single security other than shares of exchange-traded funds, shares of registered closed-end management investment companies, or trust-issued receipts, to list a new delivery month of the Security Futures Contract, the single security must:

(1)–(5) No change.

(6) have a market price per security of at least $3.00 (calculated by the closing price reported on the primary market on which the underlying security trades) on the trading day immediately before listing a new delivery month[; and].

[(7) to satisfy Rule 903(c)(6)(iv) for a second, consecutive six calendar-month period, the price of the underlying security must be at least $4.00.]

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

NQLX has prepared statements concerning the purpose of, and basis for, the proposed rule change, burdens on competition, and comments received from members, participants, and others. The text of these statements may be examined at the places specified in Item IV below. These statements are set forth in sections A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NQLX proposes removing NQLX Rule 903(c)(7) from its maintenance listing standards for security futures on single securities other than shares of exchange-traded funds, shares of registered closed-end management investment companies, or trust-issued receipts. NQLX previously amended Rule 903(c)(6) to allow for the listing of a new delivery month for a security futures product if the underlying securities have reported at least a $3.00 per share closing price on their primary market on the trading day immediately before the listing of the new delivery month.[5] When NQLX Rule 903(c)(6) was amended, NQLX Rule 903(c)(7), which was a related provision, should have been removed as no longer applicable or relevant. Therefore, NQLX states that the proposed removal of NQLX Rule 903(c)(7) merely eliminates a provision that no longer serves any purpose, nor makes any sense, because of the previous amendments made to NQLX Rule 903(c)(6).

In addition, new NQLX Rule 403(e) is intended to make explicit that, if at the time of order entry, an NQLX member or person associated with an NQLX member fails to provide the appropriate clearing account indicator (*e.g.*, the type of clearing account: firm account, customer account, or market maker account) as required by NQLX Rules 408(c)(6) and (d), then the member or person associated with the member must timely provide the appropriate clearing account indicator for the trade through NQLX's trade registration system before the clearing organization accepts and registers the trade. NQLX believes that new NQLX Rule 408(e) will help enhance its trade audit trail and trade processing and clearing by requiring members to ensure that proper clearing account indicators are provided to the clearing organization for executed trades.

NQLX believes that these proposed rule changes are consistent with the requirements under section 6(h)(3) of the Act [6] and the criteria under section 2(a)(1)(D)(i) of the CEA,[7] as modified by joint orders of the Commission and the CFTC,[8] and that its listing standards are no less restrictive than comparable listing standards for options traded on a national securities exchange or national securities association.[9]

2. Statutory Basis

NQLX files the proposed rule changes pursuant to section 19(b)(7) of the Act.[10] NQLX believes that the proposed rule changes are consistent with the requirements of the Commodity Futures Modernization Act of 2000,[11] including the requirement that trading in a listed security futures is not readily susceptible to manipulation of its price nor to causing or being used to manipulate the price of the underlying security, options on the security, or options on a group or index including the security.[12] NQLX further believes that its proposed rule changes comply with the requirements under section

[3] 7 U.S.C. 7a–2(c).

[4] *See* Securities Exchange Act Release No. 47675 (April 14, 2003), 68 FR 19591 (April 21, 2003).

[5] *Id.*

[6] 15 U.S.C. 78f(h)(3).

[7] 7 U.S.C. 2(a)(1)(D)(i).

[8] *See* Joint Order Granting the Modification of Listing Standards Requirements (American Depository Receipts), Securities Exchange Act Release No. 44725 (Aug. 20, 2001), and Joint Order Granting the Modification of Listing Standards Requirements (Exchange Traded Funds, Trust Issued Receipts and Shares of Closed-End Funds), Securities Exchange Act Release No. 46090 (June 19, 2002), 67 FR 42760 (June 25, 2002).

[9] 15 U.S.C. 78f(h)(3)(C).

[10] 15 U.S.C. 78s(b)(7).

[11] P.L. 106–554, 114 Stat. 2763 (2000).

[12] 15 U.S.C. 78f(h)(3)(H).

6(h)(3) of the Act[13] and the criteria under section 2(a)(1)(D)(i) of the CEA,[14] as modified by joint orders of the Commission and the CFTC. In addition, NQLX believes that its proposed rule changes are consistent with the provisions of section 6 of the Act,[15] in general, and section 6(b)(5) of the Act,[16] in particular, which requires, among other things, that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

NQLX does not believe that the proposed rule changes will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement of Comments on the Proposed Rule Change Received From Members, Participants, or Others

NQLX neither solicited nor received written comment on the proposed rule changes.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective on June 27, 2003. Within 60 days of the date of effectiveness of the proposed rule changes, the Commission, after consultation with the CFTC, may summarily abrogate the proposed rule changes and require that the proposed rule changes be refiled in accordance with the provisions of section 19(b)(1) of the Act.[17]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, conflicts with the Act. Persons making written submissions should file nine copies of the submission with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Comments also may be submitted electronically to the following e-mail address: *rule-comments@sec.gov.* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of these filings also will be available for inspection and copying at the principal office of NQLX. All submissions should refer to File No. SR–NQLX–2003–05 and should be submitted by August 6, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–17924 Filed 7–15–03; 8:45 am]

BILLING CODE 8010–01–P

[13] 15 U.S.C. 78f(h)(3).

[14] 7 U.S.C. 2(a)(1)(D)(i).

[15] 15 U.S.C. 78f.

[16] 15 U.S.C. 78f(b)(5).

[17] 15 U.S.C. 78s(b)(1).

[18] 17 CFR 200.30–3(a)(75).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48137; File No. SR–NASD–2002–80]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 thereto by the National Association of Securities Dealers, Inc. to Require an Issuer's Audit Committee or Another Independent Body of the Board of Directors to Approve Related Party Transactions

July 8, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 11, 2002, the National Association of Securities Dealers, Inc. (''NASD''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. On December 30, 2002, Nasdaq submitted Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from John D. Nachman, Senior Attorney, Nasdaq, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, dated December 30, 2002 (''Amendment No. 1'').

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to require an issuer's audit committee or another independent body of the board of directors to approve related party transactions. Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

* * * * *

Rule 4350. Qualitative Listing Requirements for Nasdaq National Market and Nasdaq SmallCap Market Issuers Except for Limited Partnerships

(a)—(g) No change.

(h) Conflicts of Interest.

Each Issuer shall conduct an appropriate review of all related party transactions on an ongoing basis and [shall utilize] *all such transactions must be approved by* the company's audit committee or *another* [comparable] *independent* body of the board of directors [for the review of potential conflict of interest situations where appropriate]. *For purposes of this rule, the term ''related party transaction'' shall refer to transactions required to be disclosed pursuant to SEC Regulation S–K, Item 404.*

(i)—(l) No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to expand Nasdaq's conflict of interest rule, Rule 4350(h). This rule currently provides that an issuer must conduct an appropriate review of all related party transactions on an ongoing basis and utilize its audit committee or comparable body of the board of directors for the review of potential conflicts of interest. Nasdaq is proposing to expand this rule by

requiring the audit committee or another independent body of the board of directors to approve, rather than merely review, related party transactions.[4] Of course, all directors that review and approve a related party transaction must not only be independent as specified under Nasdaq rules but also disinterested in the transaction. Nasdaq believes that requiring approval of such transactions will improve investor protection.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A of the Act,[5] in general, and with section 15A(b)(6) of the Act,[6] in particular, in that the proposed rules are designed to prevent fraudulent and manipulative acts and practices and, in general, to protect investors and the public interest. As previously mentioned, the proposed rule change is designed to improve investor protection.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

[4] For purposes of Rule 4350(h), the term ''related party transaction'' shall refer to transactions required to be disclosed pursuant to SEC Regulation S–K, Item 404.

[5] 15 U.S.C. 78*o*–3.

[6] 15 U.S.C. 78*o*–3(b)(6).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the amended proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–2002–80 and should be submitted by August 6, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–17926 Filed 7–15–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48141; File No. SR–NSCC–2003–12]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Availability of Trade Data to Members for Listed and OTC Processing

July 8, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934,[1] notice is hereby given that on June 16, 2003, the National Securities Clearing Corporation (''NSCC'') filed a proposed rule change with the Securities and Exchange Commission (''Commission'') and on June 24, 2003, amended the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[7] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change will make technical modifications to NSCC's trade comparison rules and procedures to clarify (1) the format, availability, and content of trade data available to its participants and (2) that NSCC will no longer provide trade comparison processing for New York Stock Exchange (''NYSE'') and American Stock Exchange (''Amex'') equity trades.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in item IV below. NSCC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.[2]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.

The purpose of the proposed rule change is to make technical changes to NSCC's rules and procedures to conform them to actual practice. NSCC issues transaction information known as ''output'' to its members in various formats and at different intervals throughout the day. The changes make it clear that the frequency and availability of such information is dependent on the format of the output.

Historically, NSCC's reporting of equity trading activity on behalf of various participants and marketplaces was limited to reporting at the end of the trading processing day, with report output produced to participants and marketplaces in both a print image (''PI'') and machine readable output (''MRO'') form.

With PI output, data appears as a formatted report with predefined columns of information. PI-formatted information is ''reader friendly,'' includes both activity and total fields, and is usually produced at end-of-day, reflecting the total activity reported by the participant for that processing day.

[2] The Commission has modified the text of the summaries prepared by NSCC.

MRO consists of a continuous strand of data and the receiver uses an NSCC-defined record layout that identifies each specific field of data to populate the information into its own internal reports. MRO contains additional fields of useful data that do appear on PI output. Participants that use MRO may receive multiple transmissions of data throughout the processing day and each transmission of data generally reflects activity only. Participants accumulate their intraday output files from NSCC throughout the day, and the sum of the accumulated files represents their total activity reported to NSCC for that processing day.

NSCC is also clarifying its rules to indicate that NSCC performs comparison processing only for over-the-counter and non-NYSE/Amex trades. NSCC's rules previously provided that when the NYSE and the Amex provided comparison processing, NSCC would no longer perform these functions for securities traded on these exchanges. Since the NYSE and Amex now provide this function, references to comparison processing for NYSE and Amex equities are being deleted.

NSCC believes that this proposed rule change is consistent with the provisions of section 17A of the Act [3] and the rules and regulations thereunder because NSCC's rules will more accurately reflect the availability of trade reporting and trade comparison output. Therefore, the proposed rule change should enhance the prompt and accurate clearance and settlement of securities transactions.

B. Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will have an impact on or impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments relating to the proposed rule change have been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(iii) of the Act [4] and Securities Exchange Act Rule 19b–4(f)(4)[5] because it effects a change in an existing NSCC service that does not adversely affect the safeguarding of securities or funds in NSCC's control or for which NSCC is responsible and does not significantly affect NSCC's or its participants' respective rights or obligations. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549–0069. Comments may also be submitted electronically at the following e-mail address: *rule-comments@sec.gov.* All comment letters should refer to File No. SR–NSCC–2003–12. This file number should be included on the subject line if e-mail is used. To help us process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. Copies of the submission, all subsequent amendments, all written statements with respect to the rule filing that are filed with the Commission, and all written communications relating to the rule filing between the Commission and any person, other than those that may be withheld from the public in accordance with provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room in Washington, DC. Copies of such filing will also be available for inspection and copying at NSCC's principal office. All submissions should refer to File No. SR–NSCC–2003–12 and should be submitted by August 6, 2003.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–17921 Filed 7–15–03; 8:45 am]

BILLING CODE 8010–01–P

[3] 15 U.S.C. 78q–1.

[4] 15 U.S.C. 78s(b)(3)(A)(iii).

[5] 17 CFR 240.19b–4(f)(1).

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48135; File No. SR–Phlx–2003–21]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change and Amendment No. 1 Thereto by the Philadelphia Stock Exchange, Inc. Relating to a Disclaimer by Susquehanna Indices, LLP

July 7, 2003.

On April 2, 2003, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt new Rule 1104A, *Susquehanna Indices, LLP Indexes*, to provide a disclaimer with regards to SIG Investment Managers Index™ (''Index''). On May 23, 2003, the Phlx submitted Amendment No. 1 to the proposed rule change.[3] The proposed rule change, as amended, was published in the **Federal Register** on June 4, 2003.[4] This order approves the amended proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[5] Specifically, the Commission believes that the proposal is consistent with section 6(b)(5) of the Act,[6] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

The Commission notes that the Exchange filed the proposed rule change pursuant to a license agreement requirement with Susquehanna Indices, LLP (''SI''), and the disclaimer provision would generally provide that SI makes no warranty, express or implied, as to the results or data to be obtained by any person or entity regarding the Index. The Commission believes that the Phlx's

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Carla Behnfeldt, Director, Legal Department New Product Development Group, Phlx, to Lisa N. Jones, Attorney, Division of Market Regulation, Commission, dated May 22, 2003 (''Amendment No. 1'').

[4] Securities Exchange Act Release No. 47937 (May 28, 2003), 68 FR 33555.

[5] In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78f(b)(5).

proposed disclaimer provision is similar to the disclaimer provisions provided in other exchanges' rules relating to specified index options, and therefore raises no novel regulatory issues.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[7] that the proposed rule change (SR–Phlx–2003–21), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–17922 Filed 7–15–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48144; File No. SR–Phlx–2003–31]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Philadelphia Stock Exchange, Inc. to Amend the Exchange's Rule 229 to Provide for the Automatic Execution of Odd-lot Market and Marketable Limit Orders Received Over PACE During Locked and Crossed Markets

July 9, 2003.

On April 23, 2002, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange''), filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Phlx Rule 229, Supplementary Material .08, to modify the Philadelphia Stock Exchange Automated Communication and Execution (''PACE'') System to provide for the automated execution of odd-lot market and marketable limit orders received over the PACE System during locked and crossed markets. When the PACE Quote[3] is locked, odd-lot market and marketable limit orders entered after the opening will be executed at the locked price. If the PACE Quote is crossed, odd-lot orders will be executed automatically at the mean of the crossed bid and offer if the bid is higher than the offer by $.05 or less, or manually at the price of the next unlocked and uncrossed PACE Quote if the bid is higher than the offer by more than $.05.

The proposed rule change was published for comment in the **Federal Register** on June 4, 2003.[4] The Commission received no comments on the proposal.

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[5] Specifically, the Commission finds that the proposed rule change promotes the objectives of section 6(b)(5) of the Act,[6] which requires, among other things, that the rules of the Exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and national market system, and, in general, to protect investors and the public interest.

The Commission believes that the proposed rule change is consistent with the Act because the Exchange's proposed process for handling odd-lot market and marketable limit orders after the opening should increase the efficiency of order handling by relieving the burden of specialists of dealing with manual orders of less than a round lot during periods of locked and crossed markets. Additionally, the Commission notes that the Exchange represents that the proposed rule change will improve and enhance order execution quality by reducing order execution time while simultaneously ensuring that orders receive the best bid or offer. Finally, the Commission notes that the proposed rule change is similar to that of the American Stock Exchange LLC[7] and therefore raises no novel regulatory issues.

It Is therefore ordered, Pursuant to section 19(b)(2) of the Act,[8] that the proposed rule change (SR–Phlx–2003–31) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–17925 Filed 7–15–03; 8:45 am]

BILLING CODE 8010–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3521]

State of Nebraska

Thayer County and the contiguous counties of Clay, Fillmore, Jefferson, Nuckolls, and Saline in the State of Nebraska; and Republic and Washington Counties in the State of Kansas constitute a disaster area due to severe storms, hail, flooding, and tornadoes that occurred on June 22 and June 23, 2003. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on September 8, 2003 and for economic injury until the close of business on April 12, 2004 at the address listed below or other locally announced locations: Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Boulevard, Suite 102, Forth Worth, TX 76155.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	5.625
Homeowners without credit available elsewhere	2.812
Businesses with credit available elsewhere	5.906
Businesses and non-profit organizations without credit available elsewhere	2.953
Others (including non-profit organizations) with credit available elsewhere	5.500
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	2.953

The numbers assigned to this disaster for physical damage are 352111 for Nebraska and 352211 for Kansas. For economic injury, the numbers are 9W2400 for Nebraska and 9W2500 for Kansas.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

[7] 15 U.S.C. 78s(b)(2).

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] The PACE Quote is the best bid/ask quote among the American Stock Exchange, Boston Stock Exchange, Cincinnati Stock Exchange, Chicago Stock Exchange, New York Stock Exchange, Pacific Exchange or Philadelphia Stock Exchange, or the Intermarket Trading System/Computer Assisted Execution System (''ITS/CAES'') quote, as appropriate. The Phlx has represented that the proposal, including the PACE quote, would not include Nasdaq securities. Telephone conversation between Murray L. Ross, Vice President and Secretary, Phlx, and Cyndi Rodriguez, Special Counsel, Division of Market Regulation, Commission, on July 1, 2003.

[4] *See* Securities Exchange Act Release No. 47942 (May 29, 2003), 68 FR 33557 (June 4, 2003).

[5] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78f(b)(5).

[7] *See* Securities Exchange Act Release No. 46304 (August 2, 2002), 67 FR 51903 (August 9, 2002).

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

Dated: July 10, 2003

Hector V. Barreto,

Administrator.

[FR Doc. 03–17965 Filed 7–15–03; 8:45 am]

BILLING CODE 8025–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences (GSP); Extension of Deadline for Submission of Petitions for the 2003 Annual GSP Product and Country Eligibility Practices Review

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: This notice extends the deadline for the submission of petitions for the 2003 Annual GSP Product and Country Eligibility Practices Review to September 2, 2003. Notification of which petitions are accepted for the 2003 Annual GSP Review and of other relevant dates will be published in the **Federal Register**.

ADDRESSES: Submit petitions by electronic mail (e-mail) to *FR0081@ustr.gov*. If unable to submit petitions by e-mail, contact the GSP Subcommittee, Office of the United States Trade Representative (USTR), 1724 F Street, NW., Room F–220, Washington, DC 20508, at (202) 395–6971.

FOR FURTHER INFORMATION CONTACT: The GSP Subcommittee, Office of the United States Trade Representative (USTR), 1724 F Street, NW., Room F–220, Washington, DC 20508. The telephone number is (202) 395–6971 and the facsimile number is (202) 395–9481.

SUPPLEMENTARY INFORMATION: The GSP provides for the duty-free importation of designated articles when imported from beneficiary developing countries. The GSP is authorized by Title V of the Trade Act of 1974 (19 U.S.C. 2461, *et seq.*), as amended (the ''Trade Act''), and is implemented in accordance with Executive Order 11888 of November 24, 1975, as modified by subsequent Executive Orders and Presidential Proclamations.

2003 Annual GSP Review

The GSP regulations (15 CFR part 2007) provide the schedule of dates for conducting an annual review, unless otherwise specified by **Federal Register** notice. Notice is hereby given that, in order to be considered in the 2003 Annual GSP Product and Country Eligibility Practices Review, all petitions to modify the list of articles eligible for duty-free treatment under GSP or to review the GSP status of any beneficiary developing country must be received by the GSP Subcommittee of the Trade Policy Staff Committee no later than 5 p.m. on September 2, 2003. Petitions submitted after the extended deadline will not be considered for review.

Interested parties, including foreign governments, may submit petitions to: (1) Designate additional articles as eligible for GSP benefits, including to designate articles as eligible for GSP benefits only for countries designated as least-developed beneficiary developing countries, or only for countries designated as beneficiary sub-Saharan African countries under the African Growth and Opportunity Act (AGOA); (2) withdraw, suspend or limit the application of duty-free treatment accorded under the GSP with respect to any article, either for all beneficiary developing countries, least-developed beneficiary developing countries or beneficiary sub-Saharan African countries, or for any of these countries individually; (3) waive the ''competitive need limitations'' for individual beneficiary developing countries with respect to specific GSP-eligible articles (these limits do not apply to either least-developed beneficiary developing countries or beneficiary sub-Saharan African countries); and (4) otherwise modify GSP coverage. As specified in 15 CFR 2007.1, all product petitions must include a detailed description of the product and the subheading of the Harmonized Tariff Schedule (HTS) of the United States under which the product is classified.

Any person may also submit petitions to review the designation of any beneficiary developing country, including any least-developed beneficiary developing country, with respect to any of the designation criteria listed in sections 502(b) or 502(c) of the Trade Act (19 U.S.C. 2462(b) and (c)) (petitions to review the designation of beneficiary sub-Saharan African countries are considered in the Annual Review of the AGOA, a separate administrative process not governed by the GSP regulations). Such petitions must comply with the requirements of 15 CFR 2007.0(b).

Requirements for Submissions

All such submissions must conform to the GSP regulations set forth at 15 CFR part 2007, except as modified below. These regulations are reprinted in ''A Guide to the U.S. Generalized System of Preferences (GSP)'' (August 1991) (''GSP Guidebook''), available at *http://www.ustr.gov.* Any person or party making a submission is strongly advised to review the GSP regulations. Submissions that do not provide the information required by sections 2007.0 and 2007.1 of the GSP regulations will not be accepted for review, except upon a detailed showing in the submission that the petitioner made a good faith effort to obtain the information required. Petitions with respect to waivers of the ''competitive need limitations'' must meet the information requirements for product addition requests in section 2007.1(c) of the GSP regulations. A model petition format is available from the GSP Subcommittee and is included in the GSP Guidebook. Petitioners are requested to use this model petition format so as to ensure that all information requirements are met. Furthermore, interested parties submitting petitions that request action with respect to specific products should list on the first page of the petition the following information after typing ''2003 Annual GSP Review'': (1) The requested action; (2) the HTS subheading in which the product is classified; and (3) if applicable, the beneficiary developing country.

Petitions and requests must be submitted, in English, to the Chairman of the GSP Subcommittee, Trade Policy Staff Committee, and must be received no later than September 2, 2003. Submissions in response to this notice will be available for public inspection by appointment with the staff of the USTR Public Reading Room, except for information granted ''business confidential'' status pursuant to 15 CFR 2003.6. If the submission contains business confidential information, a non-confidential version of the submission must also be submitted that indicates where confidential information was redacted by inserting asterisks where material was deleted. In addition, the confidential submission must be clearly marked ''BUSINESS CONFIDENTIAL'' in large, bold letters at the top and bottom of each and every page of the document. The public version that does not contain business confidential information must also be clearly marked in large, bold letters at the top and bottom of each and every page (either ''PUBLIC VERSION'' or ''NON-CONFIDENTIAL'').

In order to facilitate prompt consideration of submissions, USTR strongly urges and prefers electronic mail (e-mail) submissions in response to this notice. Hand-delivered submissions will not be accepted. E-mail submissions should be single copy transmissions in English with the total submission including attachments not to exceed 50 pages in 12-point type and 3 megabytes as a digital file attached to

an e-mail transmission. E-mail submissions should use the following subject line: ''2003 Annual GSP Review–Petition.'' Documents must be submitted as either WordPerfect (''.WPD''), MSWord (''.DOC''), or text (''.TXT'') file. Documents should not be submitted as electronic image files or contain imbedded images (for example, ''.JPG'', ''PDF'', ''.BMP'', or ''.GIF'') as these type files are generally excessively large. E-mail submissions containing such files may not be accepted. Supporting documentation submitted as spreadsheets are acceptable as Quattro Pro or Excel, pre-formatted for printing on 8½ x 11 inch paper. To the extent possible, any data attachments to the submission should be included in the same file as the submission itself, and not as separate files.

For any document containing business confidential information submitted as an electronic attached file to an e-mail transmission, in addition to the proper marking at the top and bottom of each page as previously specified, the file name of the business confidential version should begin with the characters ''BC-'', and the file name of the public version should begin with the characters ''P-''. The ''P-'' or ''BC-'' should be followed by the name of the person or party (government, company, union, association, etc.) submitting the petition. Submissions by e-mail should not include separate cover letters or messages in the message area of the e-mail; information that might appear in any cover letter should be included directly in the attached file containing the submission itself. The electronic mail address for these submissions is *FR0081@ustr.gov.* Documents not submitted in accordance with the GSP regulations as modified by these instructions might not be considered in this review.

Public versions of all documents relating to this review will be available for review approximately 30 days after the due date by appointment in the USTR Public Reading Room, 1724 F Street NW., Washington, DC. Availability of documents may be ascertained, and appointments may be made from 9:30 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday, by calling (202) 395–6186.

Steven Falken,

Executive Director for GSP Program, Chairman, GSP Subcommittee.

[FR Doc. 03–17995 Filed 7–15–03; 8:45 am]

BILLING CODE 3190–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences (GSP): Initiation of a Review To Consider the Designation of the People's Democratic Republic of Algeria as a Beneficiary Developing Country Under the GSP

AGENCY: Office of the United States Trade Representative.

ACTION: Notice and solicitation of public comment with respect to the eligibility of People's Democratic Republic of Algeria (Algeria) for the GSP program.

SUMMARY: This notice announces the initiation of a review to consider the designation of Algeria as a beneficiary developing country under the GSP program and solicits public comment relating to the designation criteria. Comments are due August 15, 2003 in accordance with the requirements for submission explained below.

ADDRESSES: Submit comments by electronic mail (e-mail) to *FR0045@ustr.gov.* For assistance or if unable to submit comments by e-mail, contact the GSP Subcommittee, Office of the United States Trade Representative (USTR), 1724 F Street, NW., Room F–220, Washington, DC 20508, at (202) 395–6971.

FOR FURTHER INFORMATION CONTACT: Contact the GSP Subcommittee, Office of the United States Trade Representative (USTR), 1724 F Street, NW., Room F–220, Washington, DC 20508. The telephone number is (202) 395–6971 and the facsimile number is (202) 395–9481.

SUPPLEMENTARY INFORMATION: The GSP Subcommittee of the Trade Policy Staff Committee (TPSC) has initiated a review in order to make a recommendation to the President as to whether Algeria meets the eligibility criteria of the GSP statute, as set out below. After considering the eligibility criteria, the President is authorized to designate Algeria as a beneficiary developing country for purposes of the GSP. Interested parties are invited to submit comments regarding the eligibility of Algeria for designation as a GSP beneficiary developing country. Submissions should comply with 15 CFR part 2007 and the instructions that follow.

Eligibility Criteria

The trade benefits of the GSP are available to any country that the President designates as a GSP ''beneficiary developing country.'' In designating countries as GSP beneficiary developing countries, the President must consider the criteria in sections 502(b)(2) and 502(c) of the Trade Act of 1974, as amended (19 U.S.C. 2462(b)(2), 2462(c)) (''the Act'').

Section 502(b)(2) provides that a country is ineligible for designation if:

1. Such country is a Communist country, unless—

a. The products of such country receive nondiscriminatory treatment,

b. Such country is a WTO Member (as such term is defined in section 2(10) of the Uruguay Round Agreements Act) (19 U.S.C. 3501(10)) and a member of the International Monetary Fund, and

c. Such country is not dominated or controlled by international communism.

2. Such country is a party to an arrangement of countries and participates in any action pursuant to such arrangement, the effect of which is—

a. To withhold supplies of vital commodity resources from international trade or to raise the price of such commodities to an unreasonable level, and

b. To cause serious disruption of the world economy.

3. Such country affords preferential treatment to the products of a developed country, other than the United States, which has, or is likely to have, a significant adverse effect on United States commerce.

4. Such country—

a. Has nationalized, expropriated, or otherwise seized ownership or control of property, including patents, trademarks, or copyrights, owned by a United States citizen or by a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens,

b. Has taken steps to repudiate or nullify an existing contract or agreement with a United States citizen or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property, including patents, trademarks, or copyrights, so owned, or

c. Has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property, including patents, trademarks, or copyrights, so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property, unless the President determines that—

i. Prompt, adequate, and effective compensation has been or is being made to the citizen, corporation, partnership, or association referred to above,

ii. Good faith negotiations to provide prompt, adequate, and effective compensation under the applicable provisions of international law are in progress, or the country is otherwise taking steps to discharge its obligations under international law with respect to such citizen, corporation, partnership, or association, or

iii. A dispute involving such citizen, corporation, partnership, or association over compensation for such a seizure has been submitted to arbitration under the provisions of the Convention for the Settlement of Investment Disputes, or in another mutually agreed upon forum, and the President promptly furnishes a copy of such determination to the Senate and House of Representatives.

5. Such country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of United States citizens or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, which have been made by arbitrators appointed for each case or by permanent arbitral bodies to which the parties involved have submitted their dispute.

6. Such country aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism or the Secretary of State makes a determination with respect to such country under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. Appx. section 2405(j)(1)(A)) or such country has not taken steps to support the efforts of the United States to combat terrorism.

7. Such country has not taken or is not taking steps to afford internationally recognized worker rights to workers in the country (including any designated zone in that country).

8. Such country has not implemented its commitments to eliminate the worst forms of child labor.

Section 502(c) provides that, in determining whether to designate any country as a GSP beneficiary developing country, the President shall take into account:

1. An expression by such country of its desire to be so designated;

2. The level of economic development of such country, including its per capita gross national product, the living standards of its inhabitants, and any other economic factors which the President deems appropriate;

3. Whether or not other major developed countries are extending generalized preferential tariff treatment to such country;

4. The extent to which such country has assured the United States that it will provide equitable and reasonable access to the markets and basic commodity resources of such country and the extent to which such country has assured the United States that it will refrain from engaging in unreasonable export practices;

5. The extent to which such country is providing adequate and effective protection of intellectual property rights;

6. The extent to which such country has taken action to—

a. Reduce trade distorting investment practices and policies (including export performance requirements); and

b. Reduce or eliminate barriers to trade in services; and

7. Whether or not such country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights.

Note that the Trade Act of 2002 amended paragraph (D) of the definition of the term ''internationally recognized worker rights,'' which now includes: (A) The right of association; (B) the right to organize and bargain collectively; (C) a prohibition on the use of any form of forced or compulsory labor; (D) a minimum age for the employment of children and a prohibition on the worst forms of child labor as defined in paragraph (6) of section 507(4) of the Act; and (E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

Requirements for Submissions

Comments must be submitted, in English, to the Chairman of the GSP Subcommittee, Trade Policy Staff Committee. Comments must be received no later than 5 p.m. August 15, 2003. Information and comments submitted will be subject to public inspection by appointment with the staff of the USTR Public Reading Room, except for information granted ''business confidential'' status pursuant to 15 CFR 2003.6. If the submission contains business confidential information, a non-confidential version of the submission must also be submitted that indicates where confidential information was redacted by inserting asterisks where material was deleted. In addition, the confidential submission must be clearly marked ''BUSINESS CONFIDENTIAL'' at the top and bottom of each and every page of the document. The public version that does not contain business confidential information must also be clearly marked at the top and bottom of each and every page (either ''PUBLIC VERSION'' or ''NON-CONFIDENTIAL'').

In order to facilitate prompt consideration of submissions, USTR strongly urges and prefers electronic mail (e-mail) submissions in response to this notice. Hand delivered submissions will not be accepted. These submissions should be single copy transmissions in English with the total submission, including attachments, not to exceed 50 single-spaced pages and 3 megabytes as a digital file attached to an e-mail transmission. Persons making submissions by e-mail should use the following subject line: ''Algeria GSP Eligibility Review.'' Documents must be submitted, in English, as either WordPerfect (''.WPD''), MSWord (''.DOC''), or text (''.TXT'') files. Documents should not be submitted as electronic image files or contain imbedded images (for example, ''.JPG'', ''PDF'', ''.BMP'', or ''.GIF''), as these type of files are generally excessively large. Supporting documentation submitted as spreadsheets are acceptable as Quattro Pro or Excel, pre-formatted for printing on 8½ x 11 inch paper. To the extent possible, any data attachments to the submission should be included in the same file as the submission itself, and not as separate files. Facsimile submissions should include, among other identifying information specified in the regulations, the following information at the top of the first page: ''Algeria GSP Eligibility Review.''

For any document containing business confidential information submitted as an electronic attached file to an e-mail transmission, the file name of the business confidential version should begin with the characters ''BC–'', and the file name of the public version should begin with the characters ''P–''. The ''P-'' or ''BC–'' should be followed by the name of the submitter. Persons who make submissions by e-mail should not provide separate cover letters or messages in the message area of the e-mail; information that might appear in any cover letter should be included directly in the attached file containing the submission itself.

Public versions of all documents relating to this review will be available for review shortly after the due date by appointment in the USTR public reading room, 1724 F Street NW., Washington, DC. Appointments may be made from 9:30 a.m. to noon and 1 p.m.

to 4 p.m., Monday through Friday by calling (202) 395–6186.

Steven Falken,

Executive Director GSP, Chairman, GSP Subcommittee.

[FR Doc. 03–17996 Filed 7–15–03; 8:45 am]

BILLING CODE 3190–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. OST–2003–15623]

Notice of Request for Renewal of a Previously Approved Collection

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), this notice announces the Department of Transportation's (DOT) intention to request renewal of a previously approved information collection.

DATES: Comments on this notice must be received by September 15, 2003.

ADDRESSES: You may submit comments [identified by DOT DMS Docket Number OST–2003–15623] by any of the following methods:

- Web Site: *http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- Fax 1–202–493–2251.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington DC, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.
- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the Supplementary information section of this document. Note that all comments received will be posted without change to *http://dms.dot.gov* including any personal information provided. Please see the Privacy Act heading under Regulatory Notes.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Delores King, Air Carrier Fitness Division (X–56), Office of Aviation Analysis, Office of the Secretary, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–2343.

SUPPLEMENTARY INFORMATION:

Title: Use and Change of names of Air Carriers, Foreign Air Charters, and Commuter Air Carriers, 14 CFR Part 215.

OMB Control Number: 2106–0043.

Type of Request: Renewal without change, of a previously approved collection.

Abstract: In accordance with the procedures set forth in 14 CFR Part 215, before a holder of certificated, foreign, or commuter air carrier authority may hold itself out to the public in any particular name or trade name, it must register that name or trade with the Department, and notify all other certificated, foreign, and commuter air carriers that have registered the same or similar name(s) of the intended name registration.

Respondents: Persons seeking to use or change the name or trade name in which they hold themselves out to the public as an air carrier or foreign air carrier.

Estimated Number of Respondents: 15.

Average Annual Burden per Respondent: 4.6 hours.

Estimated Total Burden on Respondents: 69 hours.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Issued in Washington, DC on July 3, 2003.

Randall D. Bennett,

Director, Office of Aviation Analysis.

[FR Doc. 03–17905 Filed 7–15–03; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed the Week Ending July 4, 2003

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. sections 412 and 414. Answers may be filed within 21 days after the filing of the application.

Docket Number: OST–2003–15539.
Date Filed: June 30, 2003.
Parties: Members of the International Air Transport Association.
Subject: Mail Vote 307, PTC12 USA–EUR 0156 dated June 14, 2003, TC12 North Atlantic USA-Europe, Expedited Resolution 015h, Intended effective date: August 1, 2003.

Docket Number: OST–2003–15540.
Date Filed: June 30, 2003.
Parties: Members of the International Air Transport Association.
Subject: Mail Vote 310, PTC23 EUR–SASC 0108, PTC123 0241, PTC31, N/C&CIRC 0242 dated July 1, 2003, Special Passenger Amending Resolution 010s from India, Intended effective date: July 15, 2003.

Andrea M. Jenkins,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. 03–17904 Filed 7–15–03; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33388 (Sub–No. 94)]

CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company—Control and Operating Leases/Agreements—Conrail Inc. and Consolidated Rail Corporation (Petition for Supplemental Order)

AGENCY: Surface Transportation Board, DOT.

ACTION: Decision No. 1 in STB Finance Docket No. 33388 (Sub-No. 94); Notice of Filing of Petition for Supplemental Order; Issuance of Procedural Schedule.

SUMMARY: On June 4, 2003, CSX Corporation (CSXC), CSX

Transportation, Inc. (CSXT), Norfolk Southern Corporation (NSC), Norfolk Southern Railway Company (NSR), Conrail, Inc. (CRR), and Consolidated Rail Corporation (CRC) [1] filed with the Surface Transportation Board (the Board) a petition for a supplemental order authorizing the consolidation of New York Central Lines LLC (NYC) with CSX and the consolidation of Pennsylvania Lines LLC (PRR) with NS, for the stated purpose of effectuating the acquisition of full ownership and control of the assets and business of NYC by CSX and of PRR by NS.[2] The transaction that petitioners have proposed will extend the existing rights of CSX and NS to control and operate NYC and PRR, respectively, to include full legal ownership of the properties and businesses of NYC and PRR, respectively. The transaction that petitioners have proposed also involves a restructuring of certain Conrail debt obligations.

DATES: The effective date of this decision is July 9, 2003. Petitioners have until July 17, 2003, to clarify exactly which category of debt obligations will be affected by the proposed debt restructuring. Petitioners have until July 29, 2003, to serve copies of this decision, and to certify in writing that such service has been accomplished, on all parties of record in STB Finance Docket No. 33388 and on all known holders of Conrail's relevant debt and equipment lease obligations (as those terms are used in this decision). Any person (including, but not limited to, persons served with copies of this decision) who wishes to file comments respecting the petition must file such comments by August 28, 2003. Petitioners will have until September 25, 2003, to reply to any such comments.

ADDRESSES: All pleadings should refer to STB Finance Docket No. 33388 (Sub-No. 94). Comments (an original and 10 copies) should be sent to: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. Comments should also be served (one copy each) on: (1) G. Paul Moates, Sidley Austin Brown & Wood LLP, 1501 K Street, NW., Washington, DC 20005; (2) Peter J. Shudtz, CSX Corporation, Suite 560, 1331 Pennsylvania Ave., NW., Washington, DC 20004; (3) Henry D. Light, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510–9241; and (4) Jonathan M. Broder, Consolidated Rail Corporation, Two Commerce Square, 2001 Market Street, Philadelphia, PA 19103. Replies (an original and 10 copies) should be sent to: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. Replies should also be served (one copy each) on each commenting party.[3]

In addition to submitting an original and 10 copies of all documents filed with the Board, petitioners and any commenters must also submit, on 3.5-inch IBM-compatible floppy diskettes (disks) or compact discs (CDs), electronic copies of all textual materials included in their pleadings. Such textual materials must be in, or compatible with, WordPerfect 10.0.

FOR FURTHER INFORMATION CONTACT: Julia M. Farr, (202) 565–1655. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: In a decision served July 23, 1998,[4] the Board approved, subject to various conditions, a CSX/NS/Conrail ''control'' application that had been filed with the Board on June 23, 1997, by CSX, NS, and Conrail. The application that CSX, NS, and Conrail filed, and that the Board (with certain exceptions) approved, contemplated the acquisition by CSX and NS of control of Conrail, and the division of the assets of Conrail by and between CSX and NS, to the extent and in the manner provided for in a ''Transaction Agreement'' that had been entered into by CSX, NS, and Conrail on June 10, 1997. Pursuant to Decision No. 89, acquisition of control of Conrail was effected by CSX and NS on August 22, 1998 (the Control Date), and the division of the assets of Conrail by and between CSX and NS was effected on June 1, 1999 (the Split Date). The transaction that the Board approved in Decision No. 89 is referred to as the Conrail Transaction.

Since the Control Date, CRC has been controlled by CSX and NS through a chain of holding companies. CRC has been and is a direct wholly owned subsidiary of CRR; CRR has been and is a direct wholly owned subsidiary of Green Acquisition Corp. (Green Acquisition); Green Acquisition has been and is a direct wholly owned subsidiary of CRR Holdings LLC (CRR Holdings); and CRR Holdings has been jointly owned by CSXC and NSC (CSXC holds a 50% voting interest and a 42% equity interest in CRR Holdings; NSC holds a 50% voting interest and a 58% equity interest in CRR Holdings). In accordance with the Transaction Agreement, each of CRR and CRC has been managed (since the Control Date) by a board of directors consisting of six directors divided into two classes, each class having three directors. On each board, CSXC has had the right to designate three directors and NSC has likewise had the right to designate three directors; and actions that require the approval of either board have required approval both by a majority of the directors on that board designated by CSX and by a majority of the directors on that board designated by NS. *See* Decision No. 89, 3 S.T.B. at 220.

On the Split Date, CRC's rail operating properties were divided into two categories: Allocated Assets (which were allocated either to NYC for operation by CSX or to PRR for operation by NS) and Retained Assets (which were retained by CRC for operation for the benefit of both CSX and NS). The properties in the Allocated Assets category were further divided into two additional categories: The ''NYC Allocated Assets'' (*i.e.*, such of the Allocated Assets as were allocated to NYC for operation by CSX) and the ''PRR Allocated Assets'' (*i.e.*, such of the Allocated Assets as were allocated to PRR for operation by NS). The ''NYC Allocated Assets'' consist principally of former New York Central rail lines, including lines running from New York/New Jersey through Albany and Buffalo to St. Louis, and from Albany to Boston, and certain owned and unencumbered rolling stock of Conrail. The ''PRR Allocated Assets'' consist principally of former Pennsylvania Railroad lines, including lines running from New York/New Jersey and Philadelphia through Pittsburgh and Cleveland to Chicago, and certain owned and unencumbered rolling stock of Conrail. The Retained Assets consist primarily of the three Shared Assets Areas (SAAs): the North Jersey SAA; the South Jersey/Philadelphia SAA; and the Detroit SAA.[5]

[1] CSXC and CSXT, and all other entities wholly owned (directly or indirectly) by CSXC, are referred to collectively as CSX. NSC and NSR, and all other entities wholly owned (directly or indirectly) by NSC, are referred to collectively as NS. CRR and CRC, and all other entities wholly owned (directly or indirectly) by CRR, are referred to collectively as Conrail. CSX, NS, and Conrail are referred to collectively as petitioners.

[2] CRC currently owns 100% of the membership interests in NYC and PRR.

[3] For a document to be considered a formal filing, the Board must receive an original and 10 copies of the document, along with a certification that it has been properly served. Documents transmitted by facsimile (FAX) will not be considered formal filings and are not encouraged because they will result in unnecessarily burdensome, duplicative processing. In addition, each formal filing must be accompanied by an electronic submission per the Board's requirements as discussed in this decision.

[4] *CSX Corp. et al.—Control—Conrail Inc. et al.*, 3 S.T.B. 196 (1998) (Decision No. 89).

[5] CRC also retained certain equipment encumbered by financing arrangements. The

Although the Conrail Transaction contemplated that the vast majority of Conrail's assets (*i.e.*, all assets included in the Allocated Assets category) would become part either of the CSX rail system or of the NS rail system, these assets were not transferred outright to CSX and NS. Rather, these assets were transferred to NYC and PRR for operation by CSX and NS, respectively; and each of NYC and PRR was a wholly owned subsidiary of CRC. On the Split Date: (1) CRC transferred to NYC ownership of the CRC railroad assets designated for CSX's exclusive use and operation (*i.e.*, the NYC Allocated Assets), and CRC transferred to PRR ownership of the CRC railroad assets designated for NS's exclusive use and operation (*i.e.*, the PRR Allocated Assets); and (2) NYC entered into an Allocated Assets Operating Agreement with CSXT, granting CSXT the exclusive right to operate and use the assets of NYC, and PRR entered into an Allocated Assets Operating Agreement with NSR, granting NSR the exclusive right to operate and use the assets of PRR. Ownership of the NYC and PRR Allocated Assets remains within the corporate structure of Conrail, but the operation and general day-to-day management of these assets is now conducted separately by CSXT and NSR, respectively.

Under the terms of the Transaction Agreement and the LLC agreements establishing NYC and PRR, CSX has the right to manage NYC and to designate its officers and directors, and NS has the right to manage PRR and to designate its officers and directors. Certain major decisions of NYC and PRR, however, have been reserved to CRC, which can act in that respect only with the indirect approval of both CSXC and NSC pursuant to their respective 50% voting interests in CRC's ultimate parent (CRR Holdings).

The NYC and PRR Allocated Assets Operating Agreements have fixed terms of 25 years (with options for two subsequent renewal periods), and require return of the subject rail assets by CSXT to NYC and by NSR to PRR upon termination or expiration of the agreements. The agreements also provide that an Operating Fee (analogous to rent) is to be paid by each operating railroad (CSXT and NSR) to its respective counterparty (NYC and PRR) quarterly. The agreements further provide that, every 6 years after the Split Date, the Operating Fee is to be revalued and reset to the then-current ''Fair Market Rental Value,'' defined as the rent that would be negotiated at arm's length between parties under no compulsion to lease.

operation and control of this equipment were allocated to CSXT or NSR pursuant to equipment subleases and other operating agreements.

The Proposed Transaction

Petitioners now propose to transfer ownership of NYC and PRR, through a series of intermediate steps, from CRC to CSXT and NSR, respectively. Petitioners indicate that they will carry out the proposed transaction pursuant to a ''Distribution Agreement'' (the form of which is attached to the petition as Exhibit 4). Subject to the receipt of an appropriate ruling from the Internal Revenue Service (IRS) that the proposed transaction will qualify for tax-free treatment, petitioners anticipate completing the proposed transaction in a series of five consecutive steps, occurring at approximately the same point in time.[6]

First Step: CSXT will create a new wholly owned subsidiary corporation (referred to as NYC Newco), and NSR will create a new wholly owned subsidiary corporation (referred to as PRR Newco).[7]

Second Step: CRC will transfer 100% of its membership interests in NYC to NYC Newco, which will issue to CRC common stock sufficient to provide CRC 99.9% of the then-outstanding common stock of NYC Newco; and CRC will transfer 100% of its membership interests in PRR to PRR Newco, which will issue to CRC common stock sufficient to provide CRC 99.9% of the then-outstanding common stock of PRR Newco. As a result of this step in the proposed transaction, CRC will own 99.9% of the common stock of and will control NYC Newco (which will wholly own and control NYC), and CRC will also own 99.9% of the common stock of and will control PRR Newco (which will wholly own and control PRR). As a further result of this step in the proposed transaction, CSXT will own 0.1% of the common stock of NYC Newco, and NSR will own 0.1% of the common stock of PRR Newco.

Third Step: The 99.9% of the stock of NYC Newco owned by CRC will be transferred successively up the Conrail corporate family ladder from CRC to CRR, from CRR to Green Acquisition, and from Green Acquisition to CRR Holdings. CRR Holdings will transfer the NYC Newco stock to CSX Rail Holding Corporation (CSX Rail) and CSX Northeast Holding Corporation (CSX Northeast), each of which is a wholly owned subsidiary of CSXC. CSX Rail and CSX Northeast will transfer the NYC Newco stock to CSXC; and CSXC will transfer the NYC Newco stock to CSXT. Similarly, the 99.9% of the stock of PRR Newco owned by CRC will be transferred successively up the Conrail corporate family ladder from CRC to CRR, from CRR to Green Acquisition, and from Green Acquisition to CRR Holdings; CRR Holdings will transfer the PRR Newco stock to NSC; and NSC will transfer the PRR Newco stock to NSR.[8] As a result of this step in the proposed transaction, CSXT will wholly own and control NYC Newco (which will wholly own and control NYC) and NSR will wholly own and control PRR Newco (which will wholly own and control PRR).[9]

Fourth Step: NYC will be merged with and into NYC Newco, with NYC Newco as the surviving company; and PRR will be merged with and into PRR Newco, with PRR Newco as the surviving company. As a result of this step in the proposed transaction, the business, assets, and operations of NYC will reside in a wholly owned subsidiary of CSXT (NYC Newco), and the business, assets, and operations of PRR will reside in a wholly owned subsidiary of NSR (PRR Newco).

Fifth Step: NYC Newco will be merged with and into CSXT, and PRR Newco will be merged with and into NSR, thereby completing the consolidation of NYC's business, assets, and operations within CSXT and the consolidation of PRR's business, assets, and operations within NSR. As a result of this step in the proposed transaction, the assets of NYC and PRR will be

[6] The form of the Distribution Agreement attached to the petition as Exhibit 4 provides for, among other things, revisions (in the nature of conforming changes) to the Transaction Agreement, and termination of the NYC and PRR Allocated Assets Operating Agreements. Petitioners advise that certain of the exhibits and schedules to the Distribution Agreement, including those identifying Conrail's existing debt obligations, will not be completed until shortly before the consummation of the proposed transaction, and therefore have been omitted from the form Distribution Agreement that is attached to the petition as Exhibit 4.

[7] Petitioners advise that these new subsidiary corporations will be created before the consummation of the proposed transaction. Petitioners add that the names ''NYC Newco'' and ''PRR Newco'' are illustrative; the newly created corporations may have different names.

[8] There appear to be, on the NS/PRR side of the third step in the proposed transaction, no intermediate entities comparable to CSX Rail and CSX Northeast.

[9] Shortly before closing, CSX and NS will obtain an independent valuation of NYC and PRR by an investment banking firm. If the respective fair market values of NYC and PRR are not equal to 42%/58% of their combined value at the time of closing, CSX and NS will seek to agree on steps to resolve this disparity. Unlike the periodic revaluation required under the current corporate structure, this valuation will be conducted only once, and any resulting adjustment (referred to as the ''True Up'') will be consummated on the closing date of the proposed transaction.

owned directly by CSXT and NSR, respectively.

Effects on CSX, NS, and Conrail

Petitioners contend that the proposed transaction, by effectuating a permanent legal division of the Allocated Assets between CSX and NS, will end certain undesirable features of the current corporate structure. Petitioners explain: That the present structure of the Conrail Transaction requires quarterly payments of an Operating Fee, analogous to rent, by CSXT to NYC and by NSR to PRR; that, because NYC and PRR are owned entirely by CRC, which in turn is owned by CSX and NS on a fixed 42%–58% basis, CSX and NS share (on a fixed percentage basis) the rental payments received by NYC and PRR; that the rents payable to NYC and PRR are to be redetermined every 6 years, the first redetermination to be made in respect of the 6-year period commencing June 1, 2005, on the basis of the then respective Fair Market Rental Values involved (which values are to be determined as if the lessor and the lessee were under no compulsion to rent to or from the other); that, although successful management of the NYC and/or PRR Allocated Assets is likely to increase their value, resulting in increased rental payments by CSXT and/or NSR, in differing amounts (to the extent one carrier system is more successful than the other in enhancing the value of its respective Allocated Assets), the benefit of the increased rental payments would not go entirely to the party responsible for the successful management, but would be divided on a fixed percentage basis between CSX and NS; and that, although both CSX and NS have attempted to manage and operate their respective Allocated Assets efficiently, it would be preferable to alter the current corporate structure to establish more appropriate incentives for efficient management, as well as to avoid the costly and time-consuming process of establishing, every 6 years, the Fair Market Rental Values.

Petitioners further contend that the current corporate structure also causes financial inefficiency and presents a now unnecessary degree of entanglement between CSX and NS. Petitioners add that such entanglement and inefficiencies include the need for involvement by both CSX and NS in certain management activities such as the disposition of property. Petitioners explain that, although all of the day-to-day activities of the two railroads in the operations of the two sets of Allocated Assets, and a number of other activities, including most disposals of property, can be performed by the operating railroad (CSXT or NSR) itself, the Fair Market Value even of property that the operating railroad itself can properly dispose of must be placed in an account that ultimately is for the respective benefit of CSX and NS in accordance with their 42%–58% ownership interests. It would be preferable, petitioners believe, to avoid this unnecessary entanglement.

The proposed transaction, petitioners contend, will eliminate these concerns. *Petitioners maintain:* that there will be no adverse effect on the public interest; that, in fact, the removal of the concerns noted above, and the additional management freedom provided to the two railroads, will have a positive effect on their operations and on the public interest; and that, all things considered, the proposed transaction, by disentangling CSX and NS from unnecessary involvement in the operations and management of each other's Allocated Assets, will promote the procompetitive outcome of the Conrail Transaction. The proposed transaction, petitioners continue, will simply permit CSX and NS to acquire direct ownership and exclusive control of Conrail properties that they already own indirectly (through their joint ownership of Conrail) and that they are already authorized (pursuant to Decision No. 89) to operate and manage separately as part of their respective rail systems. The proposed transaction, petitioners argue, will do no more than extend and make more effective the division of the Conrail ''Allocated Assets'' between CSX and NS previously approved in Decision No. 89. Petitioners observe that, as a result of becoming the direct owners of NYC and PRR, CSX and NS will enjoy greater management control and independence over the assets of NYC and PRR, respectively (and, similarly, the proposed transaction will eliminate CSX's indirect involvement in major corporate actions affecting the PRR Allocated Assets and NS's equivalent role in major corporate actions affecting the NYC Allocated Assets).

Effects on Shippers and Other Railroads

Petitioners contend that the proposed transaction will not affect rail operations or rail service, whether involving the NYC and PRR Allocated Assets or otherwise, and thus will have no adverse impact on shippers. Petitioners further contend that the proposed transaction will preserve the current competitive balance between CSX and NS, and enhance the efficiency and competitive independence of their rail operations; and, petitioners add, although the proposed transaction will enhance rail competition generally, it will not affect the current competitive balance between or among CSX, NS, or any other rail carrier. The proposed transaction, petitioners explain, will merely bring petitioners' corporate structures more directly in line with the operational integration achieved under the authority conferred in Decision No. 89.

Effects on Shared Assets Areas

Petitioners advise that the proposed transaction will not affect the ownership structure of or rail operations within the Shared Assets Areas in North Jersey, South Jersey/Philadelphia, and Detroit, and therefore will have no effect on the competitive rail service provided by CSXT and NSR in those areas. Petitioners advise that the involvement of both CSX and NS in the management of the SAAs, through their joint ownership and governance of Conrail and through the Shared Assets Areas Operating Agreements and other governing agreements, is an intrinsic and necessary element of the Shared Assets Areas. Petitioners add, however, that, although the proposed transaction will not impact the SAAs, the dynamic nature of the rail marketplace and the varying needs and demands of rail customers may require future adjustments in SAA rail operations and service. Petitioners observe that, as CSX and NS continue their efforts to provide competitive rail service more efficiently and effectively in the SAAs, opportunities to improve operational and managerial efficiency are likely to arise in a variety of contexts.

Effects on Employees

Petitioners contend that the proposed transaction will have no adverse impact on their employees. None of their employees, petitioners explain, will be dismissed or displaced as a result of the proposed transaction, and no changes will be required to be made to existing labor agreements or to the compensation, benefits, or working conditions of their employees. Employees now working on the railroad assets owned by NYC and PRR, petitioners advise, will continue to work for the same employers,[10] and the labor agreements that now apply to these employees, and that will continue to apply, are and will be the CSXT and NSR labor agreements. Petitioners note that, pursuant to the *New York Dock*

[10] Petitioners indicate, however, that eight non-contract employees of NYC that now work on the NYC rail assets will become, after the proposed transaction, non-contract employees of a non-railroad affiliate of CSX.

conditions [11] imposed in Decision No. 89, CSX and NS already are subject to implementing agreements governing their operational integration of the NYC Allocated Assets and the PRR Allocated Assets, respectively; and petitioners state that no changes will be required in those agreements or in any other agreements between petitioners and their employees. Petitioners add that, although they expect that the *New York Dock* conditions will be imposed on all aspects of the proposed transaction, the proposed transaction will not produce any employee impacts triggering the Article I, § 4 implementing agreement requirements or other provisions of *New York Dock.*

Environmental and/or Historic Review

Petitioners contend that, because the proposed transaction does not involve any changes in rail operations or service to shippers, no environmental documentation is required, *see* 49 CFR 1105.6(c)(2)(ii), and no historic report is required, *see* 49 CFR 1105.8(b)(2).

The Proposed Restructuring of Conrail Debt

Petitioners acknowledge that the proposed transaction will have an effect on Conrail's ''preexisting'' debt and equipment lease obligations (*i.e.*, Conrail's debt and equipment lease obligations that were in existence as of the Split Date). The holders of the relevant obligations will not, petitioners claim, be adversely impacted by the proposed transaction, but petitioners concede that, because the proposed transaction will require a restructuring of Conrail's current debt, the accomplishment of the proposed transaction will require either the consent of the holders of such debt or an order of the Board pursuant to 49 U.S.C. 11321(a).

Petitioners explain that, although CSX and NS are individually responsible for payment of ''new'' liabilities attributable to their operation of the NYC and PRR Allocated Assets accruing from the Split Date forward, most of Conrail's ''preexisting'' debt and equipment lease obligations remained with Conrail. *See* Decision No. 89, 3 S.T.B. at 230. These preexisting obligations include: Certain unsecured debentures issued by Conrail; a number of obligations that are secured, in various forms, by a first-priority lien on certain items of equipment owned by or leased to Conrail; and certain long-term finance leases of equipment. Petitioners describe these preexisting obligations as follows: All of Conrail's preexisting equipment obligations, including secured debt and long-term finance leases, are referred to as ''secured debt'' or ''secured debt obligations'; such secured debt and Conrail's preexisting unsecured debentures are referred to as its ''debt obligations'; and participants in long-term equipment leases, whether as equity or debt, are included in the terms ''holders'' and ''debtholders.''

Petitioners advise that some of the agreements underlying Conrail's preexisting debt obligations contain provisions requiring the consents of various parties (or of a majority of certain classes of debtholders) for certain corporate transactions. Most of these agreements, petitioners indicate, require such consents in connection with the proposed transfer of NYC and PRR to CSX and NS, respectively. Petitioners advise that, because the proposed transaction will transfer the major portion of Conrail's assets (its membership interests in NYC and PRR) out of Conrail's ownership, petitioners considered a number of alternative approaches, including the use of keepwell agreements, to assure that holders of Conrail's existing debt obligations (and the credit ratings of such debt obligations) will not be adversely affected by the proposed transaction.[12] Petitioners further advise that they concluded that guarantees and/or assumptions by CSXT and NSR would be the most desirable alternative for the holders of Conrail's existing debt obligations, and, accordingly, they have included such guarantees and/or assumptions in the proposed transaction. Petitioners refer to this aspect of the proposed transaction as the ''debt restructuring,'' and it is the accomplishment of this ''debt restructuring'' that petitioners have acknowledged will require either the consent of the Conrail debtholders or an order of the Board pursuant to 49 U.S.C. 11321(a).[13]

Petitioners advise that the proposed debt restructuring provides differing treatment as respects unsecured debt, on the one hand, and secured equipment financing agreements, on the other hand.

Unsecured Debt. Petitioners advise that, with respect to Conrail's preexisting unsecured debt, CSX and NS will cause NYC Newco and PRR Newco, respectively, to issue their own debt securities that will be offered in a tax-free exchange, through a series of consecutive steps occurring at approximately the same point in time, for the existing unsecured debt of CRC. Petitioners further advise that the new debt securities offered by NYC Newco and PRR Newco will have the same maturity dates, principal and interest payment dates, and interest rates as those of the respective issues of CRC unsecured debentures. And, petitioners add: NYC Newco and PRR Newco will issue debt securities in a combined aggregate principal amount equal to the aggregate principal amount of CRC's unsecured debentures to be tendered (by the holders of CRC's debentures) in the proposed exchange offer; the new debt securities offered by NYC Newco will be fully and unconditionally guaranteed by CSXT, and the new debt securities offered by PRR Newco will be fully and unconditionally guaranteed by NSR; and these NYC Newco and PRR Newco debt securities will be issued (in a series of consecutive steps occurring at approximately the same time) to the holders of CRC's unsecured debentures who elect to exchange their existing CRC debentures for the newly issued NYC Newco and PRR Newco debt securities (with NYC Newco becoming the new obligor for securities equal to 42% of each CRC unsecured debenture tendered in the exchange offer, and with PRR Newco becoming the new obligor for securities equal to 58% of each CRC unsecured debenture tendered in the exchange offer).

Petitioners note that a condition of acceptance (by NYC Newco and PRR Newco) of the exchange described in the preceding paragraph will be the grant by the exchanging bondholder of a consent that allows the proposed transaction (including the issuance of the securities contemplated by the proposed transaction) to go forward, and the termination of most of the restrictive covenants contained in the indenture under which Conrail issued its unsecured debentures (the ''Unsecured Indenture''). Petitioners further note that the exchanged Conrail debentures will be canceled, and that the exchange offer will include a customary ''exit'' consent solicitation that will permit the transfer of ownership of NYC and PRR and the other elements of the proposed transaction as previously described. Petitioners point out that, given the

[11] *See New York Dock Ry.—Control—Brooklyn Eastern Dist.,* 360 I.C.C. 60, 84–90 (1979), *aff'd sub nom. New York Dock Ry.* v. *United States,* 609 F.2d 83 (2d Cir. 1979).

[12] Petitioners appear to be using the terms ''existing debt obligations'' and ''preexisting debt obligations'' interchangeably.

[13] It is not entirely clear that the proposed debt restructuring applies only to Conrail's *preexisting* debt obligations (*i.e.*, the obligations that existed on the Split Date and that continue to exist today). It may be that the proposed debt restructuring applies to Conrail's *current* debt obligations (*i.e.*, the obligations that existed on the Split Date and that continue to exist today, and, in addition, any post-Split Date obligations incurred by Conrail).

voluntary nature of the exchange offer, some debtholders may choose not to exchange their existing unsecured CRC debentures for the new NYC Newco and PRR Newco debentures. Petitioners explain that these debtholders would continue to hold their existing unsecured CRC debentures, without most of the original covenants.

Secured Equipment Financing Agreements. Petitioners advise that all of Conrail's secured equipment financing agreements will remain obligations of Conrail, and that CRC will sublease approximately 42% of its encumbered equipment to NYC Newco and approximately 58% of its encumbered equipment to PRR Newco. Petitioners add that the sublease obligations of NYC Newco and PRR Newco will be assumed by CSXT and NSR, respectively, upon the merger of NYC Newco and PRR Newco into CSXT and NSR, respectively.

Petitioners advise that NYC Newco and PRR Newco will utilize a grantor trust structure for certain equipment secured by financing agreements entered into prior to October 1994 (to preserve for the secured parties to such financing agreements the benefits of section 1168 of the Bankruptcy Code, 11 U.S.C. 1168, as in effect prior to October 1994). Petitioners explain: that, under this structure, Conrail will sublease the relevant equipment to NYC Newco and PRR Newco under capital leases for tax purposes; that NYC Newco and PRR Newco will create bankruptcy-remote grantor trusts and transfer their rights and obligations under the capital leases to their respective grantor trusts; that the trusts then will sublease the relevant equipment to CSXT and NSR under true leases for tax purposes, and assign payments under those subleases to Conrail; and that, after NYC Newco and PRR Newco are distributed to CSXT and NSR, but before being merged into CSXT and NSR, NYC Newco and PRR Newco each will transfer the beneficial interest in its grantor trust to a corporation (other than CSXT and NSR, respectively) that is a subsidiary of CSX and NS, respectively.

Petitioners explain that, in all of Conrail's secured equipment financings, holders of Conrail's secured debt instruments are entitled to the benefits of Bankruptcy Code § 1168, which (petitioners advise) provides certain protections to creditors under railroad equipment leasing and financing arrangements. Petitioners add that, to preserve the existing protections that Conrail's secured debtholders enjoy under § 1168, all of the subleases described above will provide, among other things, that: (1) Any such sublease will be junior and subordinate to the controlling agreement and the holders of CRC's secured debt; (2) the sublessee, upon default by CRC under the controlling agreement, will surrender possession of the equipment in accordance with the terms of the controlling agreement; and (3) each sublessee in possession of equipment will be a railroad against which § 1168 protection would be available.

Analysis of the Debt Restructuring. Petitioners state that the debt ratings of the new NYC Newco and PRR Newco unsecured debentures, and the Conrail secured debt obligations, will be at least equal to that of the present corresponding CRC debt obligations. Petitioners indicate that two corporate debt rating services (Moody's Investors Service and Standard & Poor's) have advised: (a) That the debt ratings assigned to the debt obligations to be offered by NYC Newco and PRR Newco (in exchange for Conrail's current unsecured debt obligations) will be at least equal to Conrail's current debt ratings for those unsecured obligations;[14] and (b) that the debt ratings of Conrail's current public secured debt obligations will not be reduced as a result of the proposed transaction.

Petitioners assert that the proposed debt restructuring follows the pattern approved by the Board in Decision No. 89. Petitioners explain that, in that decision, the Board authorized CSX and NS to bear the economic burden of the CRC debt in the ratio of 42% to 58%, respectively. Petitioners further explain: that, in practice, Conrail's debt obligations remained in place after the Split Date, but, in the case of any failure of Conrail's income to service them, the provisions of § 4.3 of the Transaction Agreement stood behind them;[15] that the proposed debt restructuring will follow the original model by exchanging, in the same 42%–58% ratio, NYC Newco debentures guaranteed by CSXT and PRR Newco debentures guaranteed by NSR, for the Conrail unsecured debt securities, and by providing, in addition to their existing security, assumptions by CSXT and NSR in that same ratio with respect to the subleases supporting the Conrail secured debt; that the Conrail debtholders will either keep their existing securities (in the case of the secured debt obligations) or have an option to acquire new securities guaranteed by CSXT and NSR respectively, with the same maturity dates, principal and interest payment dates, and interest rates that they previously had; and that, in addition, NYC Newco's and PRR Newco's unsecured debentures will have covenant packages substantially similar to those of the publicly traded unsecured debentures of CSX and NS, respectively. Petitioners therefore conclude that the proposed debt restructuring follows the existing pattern approved by the Board and is consistent with the public interest.

Negotiations Contemplated. Petitioners indicate that they intend to approach the holders of Conrail's outstanding debt obligations to secure their consents to the proposed transaction. Petitioners advise that, because any issues involving the Conrail debtholders' consents may be resolved consensually, petitioners are not asking the Board to undertake, at this time, a detailed review of issues related to the consents. Petitioners are asking, rather, that the Board defer consideration of these issues while reviewing and approving the underlying aspects of the proposed transaction.

Relief Sought by Petitioners

(1) Petitioners ask that the Board provide for **Federal Register** publication of notice of their petition, and adopt a procedural schedule providing for an opportunity for comments by interested parties and a reply by petitioners. Petitioners ask, in particular, that the due date for the submission of comments by interested parties be set as the 30th day after the date of **Federal Register** publication, and that the due date for the submission of a reply by petitioners be set as the 60th day after the date of **Federal Register** publication. Petitioners also ask that the Board issue its decision on the merits within 45 days after completion of the procedural schedule, if possible, or as expeditiously as circumstances may permit.

(2) Petitioners ask that the Board issue, following the receipt of written

[14] Petitioners add that, post-exchange, unsecured debtholders will own a package of securities, 42% of which will continue to be rated at the CSX rating (which, petitioners advise, was the Conrail rating prior to the Split Date) and 58% of which will be rated at the NS rating.

[15] 4.3(a) of the Transaction Agreement provides that, from and after the Split Date, ''CSX [in the Transaction Agreement, CSXC is referred to as CSX] and NSC shall ensure that CRR, CRC and their Affiliates have sufficient cash to satisfy the Retained Liabilities as they become due and any operating and other expenses incurred by CRR, CRC and their Affiliates in the conduct of their business.'' 4.3(b) of the Transaction Agreement provides: ''It is the intent of the parties that the economic burden of the Corporate Level Liabilities [of Conrail] will be borne, directly or indirectly, by CSX or NSC in accordance with their respective Percentage [*i.e.*, 42%–58%].'' CSX/NS–25, Volume 8B at 49 (filed June 23, 1997, in STB Finance Docket No. 33388).

comments, a 49 U.S.C. 11327 [16] ''supplemental order'' finding the proposed transaction to be consistent with the public interest, and authorizing it pursuant to 49 U.S.C. 11321–27, subject to a condition requiring petitioners to resolve through negotiations any issues pertaining to the Conrail debtholders' required consents, or, in the alternative, to propose further proceedings before the Board to determine whether the treatment of the Conrail debtholders under the terms of the proposed transaction is fair, just, and reasonable. Petitioners add that the requested order is appropriate to ensure compliance with Decision No. 89's Ordering Paragraph 6 [17] and to confirm that CSX and NS are fully authorized to carry out the proposed transaction under 49 U.S.C. 11323–24.

(3) Petitioners ask that the Board find that CRC will continue to be a rail common carrier under 49 U.S.C. 10102(5) following the consummation of the proposed transaction. *See* Decision No. 89, 3 S.T.B. at 374 (''We further find that, after the Closing Date, CRC will remain a 'rail carrier' as defined at 49 U.S.C. 10102(5).'').[18]

(4) Petitioners advise that, if potential issues regarding the debtholders' consents cannot be resolved through negotiations: (a) Petitioners will propose further proceedings to resolve any such issues before the Board on the basis that (in petitioners' view) the treatment of the Conrail debtholders under the terms of the proposed transaction is fair, just, and reasonable, *see Schwabacher* v. *United States,* 334 U.S. 192 (1948); and (b) petitioners will seek a ruling from the Board confirming that the 49 U.S.C. 11321(a) exemption ''from all other law'' (including contractual restrictions) will permit consummation of the proposed transaction without the consent of the holders of Conrail's outstanding debt obligations, and that immunity under 11321(a) from contractual consent requirements related to Conrail's outstanding debt obligations is necessary to permit petitioners to carry out the proposed transaction.

[16] 49 U.S.C. 11327 provides: ''When cause exists, the Board may make appropriate orders supplemental to an order made in a proceeding under sections 11322 through 11326 of this title.''

[17] Decision No. 89's Ordering Paragraph 6 provides: ''No change or modification shall be made in the terms and conditions approved in the authorized application without the prior approval of the Board.'' Decision No. 89, 3 S.T.B. at 385.

[18] The date referred to in this decision as the Split Date (June 1, 1999) has previously been referred to as the Closing Date and Day One. *See* Decision No. 89, 3 S.T.B. at 213 n.27.

Procedural Schedule Adopted by the Board

The Board has arranged to publish this decision in the **Federal Register** on July 16, 2003, to provide notice to interested persons that petitioners seek the relief contemplated in their petition. The Board, however, is adopting a procedural schedule somewhat different from the schedule suggested by petitioners.

Clarification Required. Petitioners will have until July 17, 2003, to clarify whether the proposed debt restructuring applies to Conrail's *preexisting* debt obligations (*i.e.*, the obligations that existed on the Split Date and that continue to exist today) or to Conrail's *current* debt obligations (*i.e.*, the obligations that existed on the Split Date and that continue to exist today, and, in addition, any post-Split Date obligations incurred by Conrail). It may be that the two sets of obligations are the same, and, even if the two sets of obligations are not precisely the same, it is quite likely that preexisting obligations comprise the vast majority of current obligations. Nevertheless, given certain ambiguities in the petition respecting this matter, it seems appropriate to require petitioners to submit clarification.

Service on Various Persons Required. To ensure that the petition is brought to the attention of those persons most likely to be affected by the proposed transaction, petitioners will have until July 29, 2003, to serve copies of this decision, and to certify in writing that such service has been accomplished, on all parties of record in STB Finance Docket No. 33388 and on all known holders of Conrail's relevant (*i.e.*, either preexisting or current) debt and equipment lease obligations (as those terms are used in this decision).[19] Petitioners' certification should be sent to: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. Petitioners should also submit, on a 3.5-inch IBM-compatible floppy disk or a CD, an electronic copy (in, or compatible with, WordPerfect 10.0) of all textual materials included in their certification.

Petition Available to Interested Persons. Interested persons may view the petition and/or the requested clarification on the Board's Web site at *http://www.stb.dot.gov,* at the ''Filings'' button. The petition was filed on June 4, 2003 (''06/04/2003''), and may be viewed with the filings for that date. The clarification will be posted to the Board's Web site shortly after it is filed.

Any person wishing to obtain a paper copy of the petition and/or the clarification may request a copy in writing or by phone from any of petitioners' representatives (who, as previously noted, are Mr. G. Paul Moates, Mr. Peter J. Shudtz, Mr. Henry D. Light, and Mr. Jonathan M. Broder). (1) Mr. Moates' mailing address is: G. Paul Moates, Sidley Austin Brown & Wood LLP, 1501 K Street, NW., Washington, DC 20005. Mr. Moates' telephone number is: 202–736–8000. (2) Mr. Shudtz's mailing address is: Peter J. Shudtz, CSX Corporation, Suite 560, 1331 Pennsylvania Ave., NW., Washington, DC 20004. Mr. Shudtz's telephone number is: 202–783–8124. (3) Mr. Light's mailing address is: Henry D. Light, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510–9241. Mr. Light's telephone number is: 757–629–2600. (4) Mr. Broder's mailing address is: Jonathan M. Broder, Consolidated Rail Corporation, Two Commerce Square, 2001 Market Street, Philadelphia, PA 19103. Mr. Broder's telephone number is: 215–209–5020.

Comments of Interested Persons. Any person (including, but not limited to, persons served with copies of this decision) who wishes to file comments respecting the petition must file such comments by August 28, 2003. Comments (an original and 10 copies), referencing STB Finance Docket No. 33388 (Sub-No. 94), should be sent to: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. Comments should also be served (one copy each) on all of petitioners' representatives (at the addresses given in the preceding paragraph). Any person submitting comments must also submit, on a 3.5-inch IBM-compatible floppy disk or a CD, an electronic copy (in, or compatible with, WordPerfect 10.0) of all textual materials included in the comments.[20]

Reply by Petitioners. Petitioners will have until September 25, 2003, to reply to any comments filed by interested persons. Replies (an original and 10 copies) should be sent to: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. Replies should also be served (one copy each) on each commenting party. Petitioners must also submit, on a 3.5-inch IBM-compatible floppy disk or a CD, an electronic copy (in, or compatible with, WordPerfect 10.0) of

[19] For purposes of this decision, a ''known'' holder of a Conrail debt obligation is a holder whose identify and mailing address are known to, or readily ascertainable by, petitioners.

[20] Parties unable to comply with the electronic submission requirement can seek a waiver from the Board.

all textual materials included in the reply.

Decision by the Board. The Board will endeavor to issue its decision on the merits of the petition as soon as possible after the filing of petitioners' reply.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It Is Ordered

1. By July 17, 2003, petitioners must clarify whether the proposed debt restructuring applies to Conrail's *preexisting* debt obligations (*i.e.*, the obligations that existed on the Split Date and that continue to exist today) or to Conrail's *current* debt obligations (*i.e.*, the obligations that existed on the Split Date and that continue to exist today, and, in addition, any post-Split Date obligations incurred by Conrail).

2. By July 29, 2003, petitioners must serve copies of this decision, and must certify in writing that such service has been accomplished, on all parties of record in STB Finance Docket No. 33388 and on all known holders of Conrail's relevant (*i.e.*, either preexisting or current) debt and equipment lease obligations (as those terms are used in this decision).

3. Comments of interested persons are due by August 28, 2003.

4. Petitioners' reply is due by September 25, 2003

5. This decision is effective on July 9, 2003.

Decided: July 9, 2003.

By the Board, Chairman Nober.

Vernon A. Williams,

Secretary.

[FR Doc. 03–17841 Filed 7–15–03; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Office of the Secretary

Notice of Call for Redemption: 8¾ Percent Treasury Bonds of 2003–08

July 15, 2003.

1. Public notice is hereby given that all outstanding 8¾ percent Treasury Bonds of 2003–08 (CUSIP No. 912810 CE 6) dated November 15, 1978, due November 15, 2008, are hereby called for redemption at par on November 15, 2003, on which date interest on such bonds will cease.

2. Full information regarding the presentation and surrender of such bonds held in coupon and registered form for redemption under this call will be found in Department of Treasury Circular No. 300 dated March 4, 1973, as amended (31 CFR part 306), and from the Definitives Section of the Bureau of the Public Debt (telephone (304) 480–7936), and on the Bureau of the Public Debt's Web site, *http://www.publicdebt.treas.gov.*

3. Redemption payments for such bonds held in book-entry form, whether on the books of the Federal Reserve Banks or in Treasury-Direct accounts, will be made automatically on November 15, 2003.

Donald V. Hammond,

Fiscal Assistant Secretary.

[FR Doc. 03–17845 Filed 7–15–03; 8:45 am]

BILLING CODE 4810–40–M

DEPARTMENT OF THE TREASURY

Departmental Offices

Debt Management Advisory Committee Meeting

Notice is hereby given, pursuant to 5 U.S.C. App. 2, section 10(a)(2), that a meeting will be held at the U.S. Treasury Department, 15th and Pennsylvania Avenue, NW., Washington, DC, on July 29, 2003, at 9 a.m. of the following debt management advisory committee:

Treasury Borrowing Advisory Committee of The Bond Market Association (''Committee'')

The agenda for the meeting provides for a charge by the Secretary of the Treasury or his designate that the Committee discuss particular issues, and a working session. Following the working session, the Committee will present a written report of its recommendations. The meeting will be closed to the public, pursuant to 5 U.S.C. App. 2, section 10(d) and Pub. L. 103–202, section 202(c)(1)(B)(31 U.S.C. 3121 note).

This notice shall constitute my determination, pursuant to the authority placed in heads of agencies by 5 U.S.C. App. 2, section 10(d) and vested in me by Treasury Department Order No. 101–05, that the meeting is concerned with discussions and debates of the issues presented to the Committee by the Secretary of the Treasury and recommendations of the Committee to the Secretary, pursuant to Pub. L. 103–202, section 202(c)(1)(B). Thus, this information is exempt from disclosure under that provision and 5 U.S.C. 552b(c)(3)(B). In addition, the meeting is concerned with information that is exempt from disclosure under 5 U.S.C. 552b(c)(9)(A). The public interest requires that such meetings be closed to the public because the Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community. When so utilized, such a committee is recognized to be an advisory committee under 5 U.S.C. App. 2, section 3.

Although the Treasury's final announcement of financing plans may not reflect the recommendations provided in reports of the Committee, premature disclosure of the Committee's deliberations and reports would be likely to lead to significant financial speculation in the securities market. Thus, this meeting falls within the exemption covered by 5 U.S.C. 552b(c)(9)(A).

The first agenda items of the Committee meeting prior to April 2003 were a presentation of a statement on economic conditions by a Treasury official and a review of financing estimates and technical charts that had been released the day before the Committee meeting. The presentation of the statement and the review were open to the public, but did not involve discussion by Committee members since the financial information had been disclosed the day prior to the meeting. The remainder of the Committee meeting was closed to the public. In place of the presentation of the economic statement and review, Treasury staff will provide a technical briefing to the press on the day before the Committee meeting, following the release of the economic statement, financing estimates and technical charts. This new procedure will make the same information available to the public, but it will give the press an opportunity to ask questions about financing projections and technical charts. As a consequence of this change, Treasury has eliminated the open portion of the Committee meeting.

The Office of Financial Markets is responsible for maintaining records of debt management advisory committee meetings and for providing annual reports setting forth a summary of Committee activities and such other matters as may be informative to the public consistent with the policy of 5 U.S.C. 552(b). The Designated Federal Officer or other responsible agency official who may be contacted for additional information is Tim Bitsberger, Deputy Assistant Secretary, Federal Finance, at (202) 622–2245.

Dated: July 11, 2003.

Brian C. Roseboro,

Assistant Secretary, Financial Markets.

[FR Doc. 03–18044 Filed 7–15–03; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund; Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Fund within the Department of the Treasury is soliciting comments concerning the Fund's reporting requirement for: a) the CDFI Program Annual Survey (comprising an Institution-Level Report and a Transaction-Level Report) from CDFI Program awardees; and b) the NMTC Program Institution-Level Report (including IRS Compliance Questions) and Transaction-Level Report from NMTC Program allocatees. The Fund is also soliciting comments on certain other information collections required by the allocation agreement for NMTC Program allocatees.

DATES: Written comments should be received on or before September 15, 2003 to be assured of consideration.

ADDRESSES: Direct all comments on the IRS Compliance Questions (found on the last page of the NMTC Program Institution-Level Report) to: John Bickford, Senior Program Analyst, SB/SE Compliance Policy, Internal Revenue Service, 5000 Ellin Road, C9–465, Lanham, MD 20706, Facsimile Number (202) 283–2240.

Direct all other comments on the CDFI Program Annual Survey and the NMTC Program Institution Level and Transaction Level Reports to: Donna Fabiani, Manager for Financial Strategies and Research, Community Development Financial Institutions Fund, U.S. Department of the Treasury, 601 13th Street, NW., Suite 200 South, Washington, DC 20005, *datacollectioncomment@cdfi.treas.gov,* Facsimile Number (202) 622–3569.

Direct all comments on the information collections related to the specified sections of the NMTC Program Allocation Agreement to: Jeffrey C. Berg, Legal Counsel, Community Development Financial Institutions Fund, U.S. Department of the Treasury, 601 13th Street, NW., Suite 200 South, Washington, DC 20005, allocation *agreementPRAcomments@cdfi.treas.gov,* Facsimile Number (202) 622–7754.

FOR FURTHER INFORMATION CONTACT: A draft of the information collections may be obtained from the Fund's Web site at *http://www.cdfifund.gov.* Requests for additional information regarding the IRS Compliance Questions should be directed to: John Bickford, Senior Program Analyst, SB/SE Compliance Policy, Internal Revenue Service, 5000 Ellin Road, C9–465, Lanham, MD 20706, or call (202)–283–2515.

Requests for additional information regarding all other reports should be directed to: Donna Fabiani, Manager for Financial Strategies and Research, Community Development Financial Institutions Fund, U.S. Department of the Treasury, 601 13th Street, NW., Suite 200 South, Washington, DC 20005, *datacollectioncomment@cdfi.treas.gov,* or fax (202) 622–3569.

Requests for additional information regarding the specified sections of the NMTC Program Allocation Agreement should be directed to: Jeffrey C. Berg, Legal Counsel, Community Development Financial Institutions Fund, U.S. Department of the Treasury, 601 13th Street, NW., Suite 200 South, Washington, DC 20005, *allocation agreementPRAcomments@cdfi.treas.gov,* or fax (202) 622–7754.

SUPPLEMENTARY INFORMATION:

Title: Performance and Compliance Data and Other Information Collection

OMB Number: 1559–0006 (for Annual Survey only)

Abstract: Since 1996, the Fund has certified more than 700 Community Development Financial Institutions (CDFIs) and more than 1,200 Community Development Entities (CDEs), and made approximately $3.1 billion in awards and tax credit allocations. The CDFI/CDE industry boasts collective assets in excess of $5 billion and a combined loan/investment portfolio of nearly $6 billion (exclusive of the equity to be raised with the recent $2.5 billion in New Markets Tax Credit allocations).

What has the industry accomplished? What is it capable of accomplishing? Answers to these questions could help catalyze new investment that may be required for the industry to reach its full market potential and achieve long-term sustainability through greater access to the financial markets.

The Fund plans to create a repository of data to help the industry conduct peer analyses and self-assessments on its products and institutional performance. This data will aid the Fund in conducting financial risk and socio-economic impact analyses.

The Fund network of more than 1,900 certified CDFIs and CDEs is an integral part of our nation's financial system. The Fund's vision is to electronically link the nation's community development financing industry as a powerful, reliable and stable network within the U.S. financial system. The Fund is re-designing its electronic platform to facilitate the flow of information between the Fund and the field and to create a repository of data to aid CDFI self-assessments through peer analyses, as well as aid the Fund in conducting its own assessment of CDFI financial risk and community development impact. To that end, the Fund will collect:

From All CDFI Program awardees, an annual survey consisting of two parts: (a) an Institution-Level Report on the CDFI and its financial performance; and (b) a Transaction-Level Report providing precise information on the socio-economic characteristics of investees, loan and investment terms, repayment status, and community development impacts. The Transaction-Level Report complements the Institution-Level Report and, together, the two pieces comprise the annual survey requirement under CDFI Program assistance agreements.

From NMTC Program allocatees, an Institution-Level Report (including IRS Compliance Questions) and a Transaction-Level Report.

These reports are used to demonstrate how CDFIs and CDEs are performing and the impact they are having in underserved communities. The data from the reports will be used in compliance reviews for awardees and allocatees, in the development and implementation of PLUM (described below), and the measurement of financing activities in the most distressed communities in the nation, including Hot Zones.

In anticipation of these changes, the Fund is making major investments in technology to collect, store, and analyze this large volume of data. Two of these investments are:

• Community Investment Intelligence System (CIIS): This new data collection system and repository will collect and store CDFI and CDE transaction-level and institution-level data. The system is being designed to communicate, where possible, with the technology CDFIs and CDEs currently use, thereby facilitating the transfer of large volumes of data to the Fund. The Fund's contractor, E F

Kearney, will work with CDFIs and CDEs in the system design phase with the goal of developing a sophisticated yet user-friendly web-based data transmission process. CIIS is expected to be implemented in December 2003.

• PLUM: PLUM is an automated CDFI performance rating system that will analyze the data collected through CIIS to rate a CDFI's Performance/community development impact, Liquidity/financial strength, Underwriting/portfolio quality, and Management. The Fund will publish a separate notice seeking public comment on PLUM.

To view the proposed data collection reports, visit the Fund's website *www.cdfifund.gov* and click on ''Fund seeking comments on Data Collection.'' This will link to the following reports: 1. CDFI Program Annual Survey—Institution-Level Report; 2. CDFI Program Annual Survey—Transaction-Level Report; 3. NMTC Program Institution-Level Report (including IRS Compliance Questions); and 4. NMTC Program Transaction-Level Report.

NMTC Program Allocation Agreement: In order to qualify for an allocation of tax credits under the NMTC Program, an entity must be certified as a qualified community development entity and submit an allocation application to the Fund. Upon receipt of such applications, the Fund will conduct a competitive review process to evaluate applications for the receipt of NMTC allocations. Entities receiving an NMTC allocation must enter into an allocation agreement with the Fund. The allocation agreement contains the terms and conditions associated with the receipt of an NMTC allocation. Comment are requested on certain disclosure requirements contained in the allocation agreement as well as the requirement for the submission of a copy of the allocatee's audited financial statements. The specific sections of the allocation agreement for which comments are sought may be obtained from the Fund's Web site at *http://www.cdfifund.gov.*

Current Action: N/A.

Type of review:

CDFI Program Annual Survey: Renewal
NMTC Program Institution-Level and Transaction-Level Reports: New
NMTC Program Allocation Agreement sections: New

Affected Public: Not-for-profit institutions, businesses or other for-profit institutions and tribal entities.

Estimated Number of Respondents:
CDFI Program Annual Survey: 350
NMTC Program Institution-Level and Transaction-Level Reports: 66
Allocation Agreement (section 4.9): 66
Allocation Agreement (sections 6.2 and 6.9): 5

Estimated Annual Time Per Respondent:
CDFI Program Annual Survey: 24 hours
NMTC Program Institution-Level and Transaction-Level Reports: 24 hours
Allocation Agreement (section 4.9): 1 hour
Allocation Agreement (sections 6.2 and 6.9): 2 hours

Estimated Total Annual Burden Hours:
CDFI Program Annual Survey: 8,400 hours
NMTC Program Institution-Level and Transaction-Level Reports: 1,584 hours
Allocation Agreement (section 4.9): 66 hours
Allocation Agreement (sections 6.2 and 6.9): 10 hours

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on all aspects of the information collections, but commentators may wish to focus particular attention on: (a) For NMTC Program allocatees, the types of data that allocatees that purchase loans should be required to report to demonstrate the community development impact of the loan purchase; (b) for NMTC Program allocatees, the types of data that allocatees that invest in other CDEs should be required to report to demonstrate the community development impact of the second-tier CDE's Qualified Active Low-Income Community Business (QALICB) borrowers/investees; (c) for NMTC allocatees, for which entity (allocatee, subsidiary CDE receiving an allocation transfer, and/or CDE investee) should the following types of information be reported: characteristics of QALICB borrowers/investees, staffing, revenue and expenses, assets and liabilities, and capital under management; (d) for NMTC allocatees, should information such as characteristics of QALICB borrowers/investees, staffing, revenue and expenses, assets and liabilities, and capital under management be reported for an entity's entire operations or only its NMTC-related activities; (e) the portion of the requested information that CDFIs and CDEs currently collect and track electronically; (f) the effort and cost for CDFIs and CDEs to begin collecting and electronically tracking any required information not currently collected and tracked electronically (*e.g.*, enhancing systems, purchasing new systems); (g) the cost for CDFIs and CDEs to operate and maintain the services/systems required to provide the required information; (h) the frequency with which the Fund should collect transaction-level data (quarterly, semi-annually, or annually); (i) ways to enhance the quality, utility, and clarity of the information to be collected; (j) whether the collection of information is necessary for the proper evaluation of the effectiveness and impact of the Fund's programs, including whether the information shall have practical utility; (k) ways to minimize the burden of the collection of information and (l) the accuracy of the Fund's estimate of the burden of the collection of information.

Comments are also requested on sections 4.9, 6.2, 6.5(c) and 6.9 of the draft NMTC Program Allocation Agreement (please note that there is no burden anticipated for section 6.5(c) since this collection of information is usual and customary for the respondents).

Authority: 12 U.S.C. 4703, 4703 note, 4707, 4710, 4714, 4717; 26 U.S.C. 45D; 31 U.S.C. 321; and 12 CFR part 1805.

Dated: July 9, 2003.

Tony T. Brown,

Director, Community Development Financial Institutions Fund.

[FR Doc. 03–17993 Filed 7–15–03; 8:45 am]

BILLING CODE 4810–70–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel (TAP) Multilingual Initiative Issue (MLI) Committee Will Be Conducted (Via Teleconference)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel (TAP) Multilingual Initiative Issue (MLI) Committee will be conducted (via teleconference).

DATES: The meeting will be held Friday, August 22, 2003.

FOR FURTHER INFORMATION CONTACT: Inez E. De Jesus at 1–888–912–1227, or 954–423–7977.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Multilingual Initiative Issue Committee will be held Friday,

August 22, 2003 from 1 p.m. EST to 2 p.m. EST via a telephone conference call. The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service. Individual comments will be limited to 5 minutes. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 954–423–7977, or write Inez E. De Jesus, TAP Office, 1000 South Pine Island Rd., Suite 340, Plantation, FL 33324. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Inez E. De Jesus. Ms. De Jesus can be reached at 1–888–912–1227 or 954–423–7977.

The agenda will include the following: Various IRS issues.

Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: July 9, 2003.

Tersheia Carter,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 03–18043 Filed 7–15–03; 8:45 am]

BILLING CODE 4830–01–P

Corrections

Federal Register

Vol. 67, No. 136

Wednesday, July 16, 2003

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF DEFENSE

Office of the Secretary

TRICARE; Implementation Date for Uniform Skilled Nursing Facility (SNF) Benefit and Adoption of Medicare Payment Method for Skilled Nursing Facilities

Correction

In notice document 03–16980 appearing on page 40251 in the issue of Monday, July 7, 2003, make the following correction:

On page 40251, in the third column, in the fifth line, ''August 12, 2003, as soon thereafter'' should read, ''August 12, 2002, or as soon as thereafter''.

[FR Doc. C3–16980 Filed 7–15–03; 8:45 am]

BILLING CODE 1505–01–D

GENERAL SERVICES ADMINISTRATION

41 CFR Part 105-55

[GSPMR Case 2003-105-1]

RIN 3090-AH84

General Services Administration Property Management Regulations; Collection of Claims Owed the United States

Correction

Proposed rule document 03–17286 was inadvertently published in the Rules and Regulations section in the issue of Friday, July 11, 2003, appearing on page 41274. It should have appeared in the Proposed Rules section.

[FR Doc. C3–17286 Filed 7–15–03; 8:45 am]

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48118; File No. SR–NYSE–2003–18]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Fingerprint-Based Background Checks of Exchange Employees and Others

July 1, 2003.

Correction

In notice document 03–17356 beginning on page 41033 in the issue of Wednesday, July 9, 2003, make the following correction:

On page 41035, in the second column, under the heading **III. Solicitation of Comments**, in the last two lines, ''[insert date 21 days from the date of publication]'' should read, '' July 30, 2003''.

[FR Doc. C3–17356 Filed 7–15–03; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Policy Statement No. ANM–03–115–28: Use of Surrogate Parts When Evaluating Seatbacks and Seatback Mounted Accessories for Compliance With §§25.562(c)(5) and 25.785(b) and (d)

Correction

In notice document 03–17115 appearing on page 40732 in the issue of Tuesday, July 8, 2003 make the following correction:

On page 40732, in the first column, the subject heading is corrected to read as set forth above.

[FR Doc. C3–17115 Filed 7–15–03; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Wednesday,
July 16, 2003

Part II

Environmental Protection Agency

40 CFR Part 52

Interim Final Determination That State of California Has Corrected Deficiencies and Stay and Deferral of Sanctions; Approval and Promulgation of Ozone Attainment Plan; State of California, San Francisco Bay Area; Interim Final Rule and Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 258–0397(B); FRL–7528–9]

Interim Final Determination That State of California Has Corrected Deficiencies and Stay and Deferral of Sanctions; San Francisco Bay Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule.

SUMMARY: Based on a proposed approval of revisions to the California State Implementation Plan (SIP) for the San Francisco Bay Area ozone nonattainment area, published elsewhere in today's **Federal Register**, EPA is making an interim final determination that California has corrected the deficiencies for which a sanctions clock began on October 22, 2001. This action will stay the imposition of the offset sanctions and defer the imposition of the highway sanction.

DATES: This interim final determination is effective on July 16, 2003. However, comments will be accepted until August 15, 2003.

ADDRESSES: Mail comments to Ginger Vagenas, Planning Office (AIR–2), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

You may inspect copies of the submitted plan at our Region IX office during normal business hours. The address is: Planning Office (AIR–2), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

You may also see copies of the submitted plan at the following locations:

Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109.
California Air Resources Board, Public Information Office, 1001 ''I'' Street, Sacramento, CA 95814.

A copy of the plan is also available via the Internet at *http://www.baaqmd.gov/planning/2001sip/2001sip.htm.*

FOR FURTHER INFORMATION CONTACT: Ginger Vagenas, EPA Region IX, (415) 972–3964.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

I. Background

On September 20, 2001 (66 FR 48340), we published a partial approval and partial disapproval of the San Francisco Bay Area's 1999 Ozone Attainment Plan (1999 Plan) as adopted by the Bay Area Air Quality Management District on June 16, 1999, the Association of Bay Area Governments on June 17, 1999, and the Metropolitan Transportation Commission on June 23, 1999. These agencies are known collectively as the co-lead agencies. The 1999 Plan was submitted to EPA by the State on August 12, 1999. We based our partial disapproval action on deficiencies in the submittal regarding the attainment [1] and reasonably available control measure (RACM) requirements of the Clean Air Act (CAA). CAA section 172(c)(1). This disapproval action started a sanctions clock for imposition of the offset sanction 18 months after October 22, 2001 and the highway sanction 6 months later, pursuant to section 179 of the CAA and our regulations at 40 CFR 52.31.

On October 24, 2001, the co-lead agencies adopted the San Francisco Bay Area 2001 Ozone Attainment Plan (2001 Plan), which was in part intended to correct the deficiencies identified in our disapproval action. On November 30, 2001, the State submitted these revisions to EPA. In the Proposed Rules section of today's **Federal Register**, we have proposed approval of this submittal. Based on today's this proposed approval, we believe that it is more likely than not that the State has corrected the attainment and RACM deficiencies. Therefore we are taking this final rulemaking action, effective on publication, to stay the imposition of the offset sanction and to defer the imposition of the highway sanction triggered by our September 20, 2001 disapproval.

EPA is providing the public with an opportunity to comment on this final action. If comments are submitted that change our assessment described in this final determination and the proposed approval of the attainment and RACM provisions of the 2001 Plan, we intend to take subsequent final action to reimpose sanctions pursuant to 40 CFR 52.31(d). If no comments are submitted that change our assessment, then all sanctions and sanction clocks will be permanently terminated on the effective date of a final approval of the attainment and RACM provisions of the 2001 Plan.

II. EPA Action

We are making an interim final determination that the State has corrected the deficiencies that started the sanctions clock. Based on this action, the imposition of the offset sanction will be stayed and the imposition of the highway sanction will be deferred until we take final action to approve the attainment and RACM provisions of the 2001 Plan or we take final action to disapprove these provisions.

Because EPA has preliminarily determined that the State has corrected the deficiencies identified in EPA's partial disapproval action of the 1999 Plan, relief from sanctions should be provided as quickly as possible. Therefore, EPA is invoking the good cause exception under the Administrative Procedure Act (APA) in not providing an opportunity for comment before this action takes effect (5 U.S.C. 553(b)(3)). However, by this action EPA is providing the public with a chance to comment on EPA's determination after the effective date, and EPA will consider any comments received in determining whether to reverse such action.

EPA believes that notice-and-comment rulemaking before the effective date of this action is impracticable and contrary to the public interest. EPA has reviewed the State's submittal and, through its proposed action, is indicating that it is more likely than not that the State has corrected the deficiencies that started the sanctions clocks. Therefore, it is not in the public interest to initially impose sanctions or to keep applied sanctions in place when the State has most likely done all it can to correct the deficiencies that triggered the sanctions clocks. Moreover, it would be impracticable to go through notice-and-comment rulemaking on a finding that the State has corrected the deficiencies prior to the rulemaking approving the State's submittal. Therefore, EPA believes that it is necessary to use the interim final rulemaking process to stay and/or defer sanctions while EPA completes its rulemaking process on the approvability of the State's submittal. Moreover, with respect to the effective date of this action, EPA is invoking the good cause exception to the 30-day notice requirement of the APA because the purpose of this notice is to relieve a restriction (5 U.S.C. 553(d)(1)).

III. Statutory and Executive Order Reviews

This action stays and/or defers federal sanctions and imposes no additional requirements.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and

[1] In this final action, references to attainment include the associated motor vehicle emission budgets.

therefore is not subject to review by the Office of Management and Budget.

This action is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action.

The administrator certifies that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. § 601 *et seq.*).

This rule does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999).

This rule is not subject to Executive Order 13045, ''Protection of Children From Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. § 272) do not apply to this rule because it imposes no standards.

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to Congress and the Comptroller General. However, section 808 provides that any rule for which the issuing agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, shall take effect at such time as the agency promulgating the rule determines. 5 U.S.C. 808(2). EPA has made such a good cause finding, including the reasons therefor, and established an effective date of July 16, 2003. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 15, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purpose of judicial review nor does it extend the time within which petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental regulations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 7, 2003.

Wayne Nastri,

Regional Administrator, Region IX.

[FR Doc. 03–17971 Filed 7–15–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA258–0397A; FRL–7528–8]

Approval and Promulgation of Ozone Attainment Plan; State of California, San Francisco Bay Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a state implementation plan (SIP) revision, the 2001 San Francisco Bay Area Ozone Attainment Plan (2001 Plan), submitted by the State of California to EPA to attain the 1-hour ozone national ambient air quality standard (NAAQS) in the San Francisco Bay Area as meeting the requirements of the Clean Air Act (CAA). The plan contains the following components: Emission inventories, a reasonably available control measure demonstration, control measure commitments, an attainment assessment and its associated motor vehicle emissions budgets, commitments to study specified measures to determine if additional emissions reductions can be achieved, a commitment to complete a mid-course review by December 15, 2003, and a commitment to adopt a revised plan by March 2004, to submit the revised plan by April 15, 2004, and to adopt additional measures as necessary to attain the standard by 2006.

In 2001, EPA disapproved certain components of the 1999 ozone attainment plan for the Bay Area: The RACM demonstration, the attainment demonstration, and the motor vehicle emissions budgets. Because of this disapproval the Bay Area became subject to the imposition of the 2 to 1 offset sanction under CAA section 179(b)(2) on April 22, 2003. Elsewhere in this **Federal Register** we are making an interim final determination that the 2001 Plan corrects these deficiencies. As a result of this determination the offset sanction will be stayed while EPA considers whether to issue a final full approval. A final full approval action on these elements would terminate the sanctions; if EPA disapproves the attainment plan on the basis that one or more of the disapproved components is still insufficient, the offset sanction will be reapplied at that time.

DATES: Comments on the proposed actions must be received on or before August 15, 2003.

ADDRESSES: Comments may be mailed to: Ginger Vagenas, Planning Office, [AIR–2], Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901; or to *vagenas.ginger@epa.gov.*

The 2001 Plan is available on the Bay Area Air Quality Management District's Web site at *http://www.baaqmd.gov/planning/2001sip/2001sip.htm* and at their offices at 939 Ellis Street, San Francisco, California, 94109. A copy of this proposed rule and related information are available in the air programs section of EPA Region 9's Web site, *http://www.epa.gov/region09/air.* The docket for this rulemaking is available for inspection during normal business hours at EPA Region 9, Planning Office, Air Division, 75 Hawthorne Street, San Francisco, California 94105. A reasonable fee may be charged for copying parts of the docket. Please call (415) 972–3964 for assistance.

FOR FURTHER INFORMATION CONTACT: Ginger Vagenas (415) 972–3964, Planning Office (AIR–2), Air Division, EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105; *vagenas.ginger@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. Background

A. 1998 Redesignation to Nonattainment

In 1978, the San Francisco Bay Area (Bay Area) was originally designated under section 107 of the CAA, as amended in 1977, as nonattainment for the federal 1-hour ozone standard. Following the 1990 Clean Air Act Amendments, the Bay Area retained its nonattainment designation and was classified as ''moderate'' under section 181 of the CAA by operation of law. 56 FR 56694 (Nov. 6, 1991). EPA redesignated the Bay Area to attainment in 1995 based on then current air quality data (60 FR 27028, May 22, 1995) and subsequently redesignated the area back to nonattainment on July 10, 1998 (63 FR 37258). See 40 CFR 81.305 (1999).[1]

EPA's action in 1998 was prompted by persistent air quality problems in the two years following the redesignation to attainment. Ozone levels exceeded the federal 1-hour ozone standard on 11 days in 1995 and 8 days in 1996. As provided under section 107(d)(3) of the CAA, EPA revised the Bay Area's designation on the basis of those air quality data. The intent of the redesignation was to return healthy air as quickly as possible to the Bay Area.

B. Nonattainment Area Requirements

In an effort to focus on near-term air quality gains, EPA set an expedited attainment deadline of November 15, 2000 under CAA section 172(a)(2) in its redesignation action. At that time, EPA believed the Bay Area could attain by that date. EPA also required the State to submit an attainment plan for the Bay Area by June 15, 1999 that addressed the section 172(c) requirements and specifically required a 1995 baseline emissions inventory, an assessment of the emissions reductions needed for attainment, and adopted control measures (or commitments to adopt and implement control measures) sufficient to meet reasonable further progress (RFP) and to attain the 1-hour ozone standard by the attainment deadline. The plan was also required to provide for the implementation of all reasonably available control measures (RACM) as expeditiously as practicable. Finally, the plan was required to include contingency measures that would take effect should attainment not be achieved by November 15, 2000, and new motor vehicle emissions budgets capping on-road emissions of volatile organic compounds (VOC) and nitrogen oxides (NO_X) emissions for ozone consistent with the new attainment plan. 63 FR at 37275–37276. See also CAA section 172(c)(1)–(3), (6)–(7) and (9).

[1] As a moderate nonattainment area, the Bay Area was subject to the moderate area requirements of title I, part D, subpart 2 of the CAA that were added as part of the 1990 Amendments. In redesignating the Bay Area back to nonattainment, EPA looked at the longstanding general nonattainment provisions of subpart 1 of the CAA as well as the subpart 2 provisions. EPA concluded that the statute was ambiguous as to which subpart should apply and for a number of policy reasons described at length in the proposed and final redesignation actions, determined that the Act is best interpreted as placing the Bay Area under subpart 1 upon redesignation back to nonattainment. Thus the Bay Area was not classified under Section 181 upon redesignation. (*See* 62 FR 66578, December 19, 1997; 63 FR 3725, July 10, 1998).

C. 1999 Ozone Attainment Plan Submission and EPA Action

On August 13, 1999, the California Air Resources Board (CARB) submitted the 1999 San Francisco Bay Area Ozone Attainment Plan (1999 Plan) to EPA. The attainment plan was submitted as a proposed revision to the California SIP by CARB on behalf of the Bay Area Air Quality Management District (BAAQMD), the Metropolitan Transportation Commission (MTC), and the Association of Bay Area Governments (ABAG) (the co-lead agencies).

On September 20, 2001, EPA partially approved and partially disapproved the 1999 Plan. Specifically, EPA approved the baseline emissions inventory, RFP demonstration, a commitment to reduce VOC emissions by 11 tons per day (tpd) by adopting and implementing specified control measures, and contingency measures as meeting the requirements of the CAA applicable to the Bay Area ozone nonattainment area. EPA also approved the removal of transportation control measures (TCMs) 6, 11, 12, and 16 from the ozone portion of the California SIP. EPA disapproved the attainment assessment, its associated motor vehicle emissions budgets, and the RACM demonstration. The effective date of the final disapproval (October 22, 2001) started an 18-month clock for the imposition of sanctions pursuant to CAA section 179(a) and 40 CFR 52.31, and a 2-year clock for EPA to promulgate a federal implementation plan (FIP) under CAA section 110(c)(1). The disapproval also activated a conformity freeze under 40 CFR 93.120(a)(2). 62 FR 43796 (August 15, 1997).

EPA's September 20, 2001 notice also included a finding that the Bay Area failed to attain the 1-hour NAAQS for ozone by its November 15, 2000 attainment deadline. In response to the finding of failure to attain, the EPA required the State to submit a SIP revision for the Bay Area to EPA by September 20, 2002 that meets the requirements of CAA sections 110 and 172 and provides for attainment ''as expeditiously as practicable'' but no later than September 20, 2006. CAA section 179(d).

For details about EPA's evaluation of the 1999 Plan elements and failure to attain finding, please see the proposed rulemaking at 66 FR 17379 (March 30, 2001) and final rulemaking at 66 FR 48340 (September 20, 2001).

D. 2001 Ozone Attainment Plan Submittal

On November 30, 2001, CARB submitted the 2001 Plan to EPA. The attainment plan was submitted as a proposed revision to the California SIP by CARB on behalf of the co-lead agencies. The 2001 Plan includes the following elements:

- Emissions inventories for 1995 and 2000 and projected inventories for 2001–2006.
- Reasonably available control measure demonstration.
- Commitments to adopt new, specified control measures.
- Attainment assessment, including a commitment to develop additional control measures as needed to attain the standard by 2006.
- Motor vehicle emissions budgets for the attainment year.
- Commitments by CARB and the co-lead agencies to: (1) Study specified measures to determine whether significant additional emission reductions can be achieved and whether implementation is feasible; (2) conduct a mid-course review by December 15, 2003 that will include an evaluation of the modeling from the Central California Ozone Study (CCOS) [2] and the latest technical information (inventory data, monitoring, *etc.*) to determine the level of emission reductions needed to attain the 1-hour ozone standard; (3) adopt a SIP revision by March 2004 that includes a revised attainment target and new control measures as needed to attain by 2006; and (4) submit the revision to EPA by April 15, 2004.

On February 14, 2002 we found the motor vehicle emissions budgets adequate for transportation conformity purposes.[3] The plan became complete by operation of law on April 30, 2002. CAA section 110(k)(1)(B).

II. Evaluation of the State's Submittal

EPA evaluated the 2001 Plan according to the general nonattainment plan requirements contained in section 172(c) of the CAA. For a more complete discussion of section 172(c) as it applies to the Bay Area ozone plan, please refer to the proposed redesignation, 62 FR 66580.

[2] The Central California Ozone Study is a large field measurement program conducted during the summer of 2000 to provide a more comprehensive and liable data base for future ozone analyses. Information regarding the CCOS is available on-line at *http://www.arb.ca.gov/airways/ccos/ccos.htm.*

[3] *See* Letter, Jack Broadbent, EPA Region 9 to Michael Kenney, California Air Resources Board (ARB), dated February 14, 2001. A copy of this letter can be found in the docket. We published this finding in the Federal Register on February 21, 2002. (*See* 67 FR 8017.) Our adequacy determination was effective on March 8, 2002.

A. Emissions Inventories

CAA section 172(c)(3) requires nonattainment plans to include a comprehensive, accurate and current inventory of actual emissions from all sources. The purpose of this inventory is to provide a benchmark for attainment planning, and it is often referred to as a baseline inventory. To satisfy this requirement, the State submitted 1995 and 2000 emissions inventories and projected emissions inventories for 2001–2006 for VOC and NO_X (2001 Plan, Table 4). They are seasonal inventories (typical summer day) representing emissions when ozone levels are at their highest.

The inventories are divided into stationary sources (point, area, and biogenic) and on-road motor vehicle and non-road mobile sources. Stationary source emissions were determined using reported emissions estimates derived from engineering calculations using emission factors from local or outside test data. Emission computation methodology by source categories is set forth in the BAAQMD publication ''Source Category Methodologies.'' For on-road motor vehicles, EMFAC 2000 was used to develop the inventories. The inventories also take rule effectiveness into account and were based on the best data available at the time. Because the emissions inventories are comprehensive and current and accurately incorporate the best data available at the time, EPA proposes to approve them as meeting the requirements of section 172(c)(3).

In the course of studying certain measures (identified as further study measures in the 2001 Plan) to identify additional sources of VOC reductions, the BAAQMD has prepared draft documents that show that emissions from certain sources in the 2001 Plan inventories may be underestimated.[4] Should these findings be confirmed, the emissions inventories that will be submitted with the revised ozone plan in 2004 must incorporate the corrected emissions levels. In addition, the co-lead agencies must use the most recent model developed by CARB and accepted by EPA to determine emissions from motor vehicles.

[4] The BAAQMD has prepared draft technical assessment documents (TADs) that describe its findings with respect to further study measures 8, 9, and 11. The TADs can be viewed on-line at *http://www.baaqmd.gov/enf/refineryfsm/REFINERY_WEBSITE.htm.* The further study measures are discussed in Section 5 of the 2001 Plan and are listed in Table 1 below.

B. Reasonably Available Control Measure Demonstration

CAA Section 172(c)(1) requires nonattainment area plans to provide for the implementation of all RACM as expeditiously as practicable. EPA's principal guidance interpreting the Act's RACM requirement is found in the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990 at 57 FR 13498, 13560 (April 16, 1992). We interpret section 172(c)(1) to impose a duty on states to consider all available control measures (including those identified in public comments) and to adopt and implement such measures that are reasonably available for implementation in the particular nonattainment area. Under this interpretation, a state does not need to adopt measures that are technologically or economically infeasible for the area or would not contribute to expeditious attainment of the applicable standard in the area, that is, would not advance the attainment date by at least one year.[5]

In our action on the Bay Area's 1999 Plan (66 FR 48341), we disapproved the RACM demonstration, noting that the 1999 Plan was silent on the RACM requirement and did not address all measures suggested by the public. The staff report prepared for the 1999 Plan (dated June 9, 1999) mentions just four measures suggested by the public and lacks an analysis of other potentially available measures.

In contrast, the 2001 Plan includes an extensive analysis that addresses more than 125 potential stationary source, area source, mobile source, and transportation control measures. See 2001 Plan, Appendix C. This analysis covers a broad range of potential RACM such as controls in the California Clean Air Plan, controls in place in the South Coast, TCMs listed in CAA section 108(f), smart growth measures, and transportation pricing measures. It also covers the measures suggested in public comments on the plan. When viewed in combination with the area's existing measures and strategies and those newly adopted for the plan, the RACM analysis covers the range of potential measures for the area's non-trivial sources of emissions.

A number of people commented during the co-lead agencies' public process that the 2001 Plan did not address or incorrectly characterized transportation control measures that were suggested by the public at the time the 2001 Plan was being developed. We found no persuasive evidence[6] that the plan excludes significant unique measures (as opposed to variations of those that were evaluated) that are reasonable and would likely result in more expeditious attainment.

For each identified potential RACM, the plan generally evaluates its technological and economic feasibility as well as (qualitatively or quantitatively) its potential to reduce emissions in the Bay Area prior to the attainment date. For each measure evaluated, the 2001 Plan provides for the adoption of the measure or a reasonable and adequately supported justification for not including the measure in the plan.

The 2001 Plan identifies 13 new measures to be implemented and a schedule for adoption and implementation. See 2001 Plan, Appendix B, and the discussion under section II.C. below. The 2001 Plan also includes a list of 11 measures that are not currently reasonably available but may become so in the future. The 2001 Plan includes a commitment to study those measures and dates for the completion of the studies. (See 2001 Plan, Table 9 and Appendix E and Table 1, below.) EPA is proposing to approve this commitment under section 110(k)(3) of the CAA as strengthening the SIP. EPA agrees that establishing such further study measures is an appropriate way to move forward on measures that are not currently RACM, but do appear to hold some promise.

TABLE 1.—FURTHER STUDY MEASURES

2001 SIP #	Measure	Timeline for completion[7]
FS–1	Study Potential for Accelerating Particulate Trap Retrofit Program for Urban Buses	April 2002.[8]
FS–2	Update MTC High-Occupancy Vehicle Lane Master Plan	December 2002.
FS–3	Study Air Quality Effects of High-Speed Freeway Travel	April 2003.
FS–4	Evaluate Parking Management Incentive Program	July 2003.
FS–5	Enhanced Housing Incentive Program	December 2003.
FS–6	Further Smog Check Program Improvements	December 2003.
FS–7	Parking Cash-Out Pilot Program	December 2003.
FS–8	Refinery Pressure Vessels, Blowdown Systems, and Flares	December 2003.
FS–9	Refinery Wastewater Systems	December 2003.
FS–10	Organic Liquid Storage Tanks	December 2002.
FS–11	Marine Tank Vessel Activities	December 2003.

[5] In 1999, EPA reaffirmed its position on this topic in the memorandum, ''Guidance on the Reasonably Available Control Measures (RACM) Requirement and Attainment Demonstration Submissions for Ozone Nonattainment Areas,'' John S. Seitz, Director, Office of Air Quality Planning and Standards, dated November 30, 1999. In this memorandum, we state that in order to determine whether a state has adopted all RACM necessary for attainment and as expeditiously as practicable, the state will need to provide a justification as to why measures within the arena of potential reasonable measures have not been adopted. The justification would need to support that a measure was not reasonably available for that area.

[6] For example, the general nature of some comments precluded detailed analysis.

[7] With the exception of FS–10, all measures with completion dates that have passed have been completed. A workgroup has been convened for FS–10 and a technical assessment is underway. See the co-lead agencies' April 10, 2003 progress report, which is in the docket and available on line at *http://www.baaqmd.gov/planning/2001sip/rfpreportfinal.pdf*. MTC's report on further study measures 1–5 is available online at *http://www.mtc.ca.gov/whats_happening/AirQuality/FSM.pdf*.

[8] For commitments in the plan that do not identify the day of the month, as here, or the month, as in Table 2, EPA interprets the deadline to be no later than the last day of the month or December 31st of the noted year, respectively.

Based on our evaluation, we conclude that the 2001 Plan presents an adequate RACM demonstration, and are therefore proposing to approve it.[9]

C. Control Measures

In order to attain the ozone standard by 2006, the Bay Area must reduce VOC emissions by 148 tons per day from 554 tons per day (2000 VOC emissions) to 406 tons per day. NO_X will be reduced by 123 tons per day, from 647 tons per day (2000 NO_X emissions) to 524 tons per day. To provide for attainment by the applicable date, the 2001 Plan relies on reductions from previously adopted measures and enforceable commitments to adopt 13 new stationary, area, mobile source, and transportation control measures that will provide additional reductions. The new measures and their expected emissions reductions are listed in the tables below and are described in Appendix B of the 2001 Plan. The Plan also includes an enforceable commitment to adopt additional measures needed for attainment. Section II.D. below discusses EPA's authority to approve commitments and our rationale for approving the commitments in the 2001 Plan.

In this action, EPA is proposing to approve as part of the attainment assessment (discussed below) required by CAA section 172(c)(1) the adoption and implementation dates of the new measures and the total emissions reductions they are cumulatively projected to achieve. We are approving all dates, including those that have passed, in order to make the commitments enforceable by EPA and citizens under the CAA.

TABLE 2.—NEW STATIONARY AND AREA SOURCE CONTROL MEASURES[10]

2001 SIP No.	BAAQMD Regulation No.	Source category	Adoption date	Implementation date	Estimated VOC reduction (tpd), 2000 to 2006	Estimated NO_x reduction (tpd), 2000 to 2006
Measures to be adopted by the BAAQMD						
SS–11	8–3	Improved Architectural Coatings Rule	2001	2003–2004	2.9	
SS–12	8–5	Improved Storage of Organic Liquids Rule	2002	2002	1.9	
SS–13	8–14 and 8–19	Surface Preparation and Cleanup Standards for Metal Parts Coating.	2002	2003	0.3	
SS–14	8–16	Aqueous Solvents	2002	2003	3.0	
SS–15	TBD	Petroleum Refinery Flare Monitoring	2003	2004	[11] TBD	
SS–16	8–18	Low-Emission Refinery Valves	2003	2004	TBD	
SS–17	8–10	Improved Process Vessel Depressurization Rule.	2003	2004	0.1	
				Total	8.2	0.0

[10] Adopted regulations will be submitted to EPA within six months of adoption. *See* 2001 Plan, page 31.

[11] At the time of plan adoption, the BAAQMD was not able to determine the amount of emissions reductions that could be achieved by adoption of rules implementing SS–15 and 16. The District indicated that the reductions were to be determined (TBD). Therefore, the emission reduction total for SS–11 through SS–17 does not include reductions from these two measures.

TABLE 3.—NEW MOBILE SOURCE CONTROL MEASURE

2001 SIP No.	Source category	Request[12] date	Implementation date	Estimated VOC reduction (tpd), 2000 to 2006	Estimated NO_x reduction (tpd), 2000 to 2006
Measures to be requested by the BAAQMD					
MS–1	Motor Vehicle Inspection and Maintenance Program—Liquid Leak Inspection and Improved Evaporative System Test.	2002	2002–2003	4.0	
			Total	4.0	0.0

[12] California Health & Safety Code (H&SC) 44003 gives California Air Pollution Control Districts the authority to request that the Department of Consumer Affairs (DCA) implement all or parts of the motor vehicle inspection and maintenance program in their areas. In the 2001 Plan, the BAAQMD, which was subject only to the basic smog check program, committed to opting into the Liquid Leak Inspection and Improved Evaporative System Test elements of enhanced smog check. DCA is already implementing the liquid leak inspection component within the Bay Area. DCA expects implementation of the full enhanced I/M program to begin in October 2003, yielding greater emissions reductions than the MS–1 commitment. Moreover, State law was amended in 2002 (AB 2637—Cardoza) to mandate expeditious DCA implementation of full enhanced inspection and maintenance in the Bay Area, which delivers substantially greater emissions reductions than the commitments in the 2001 Plan.

[9] Of course, what is ''reasonably available'' changes over time. Measures that were not considered to be RACM in 2001 could potentially become RACM by 2004, when the Bay Area's new ozone attainment plan is due. For example, the further study measures that have been undertaken to examine refinery emissions and marine loading operations could yield information that demonstrates additional emissions reductions from these sectors are reasonably available. We expect that the Bay Area's next plan will include an updated analysis that, among other things, revisits measures that were previously determined to not be RACM.

TABLE 4.—NEW TRANSPORTATION CONTROL MEASURES

2001 SIP No.	Control measure description	Description and implementation steps	Schedule	Estimated VOC reduction (tpd), 2000 to 2006	Estimated NO_X reduction (tpd), 2000 to 2006
TCM A	Regional 1 Express Bus Program.	Program includes purchase of approximately 90 low emission buses to operate new or enhanced express bus services. Buses will meet all applicable CARB standards, and will include particulate traps or filters. MTC will approve $40 million in funding to various transit operators for bus acquisition. Program assumes transit operators can sustain service for a five year period. Actual emission reductions will be determined based on routes selected by MTC.	FY 2003. Complete once $40 million in funding pursuant to Government Code Section 14556.40 is approved by the California Transportation Commission and obligated by bus operators.	See Below	See Below.
TCM B	Bicycle/Pedestrian Program.	Fund high priority projects in countrywide plans consistent with TDA funding availability. MTC would fund only projects that are exempt from CEQA, have no significant environmental impacts, or adequately mitigate any adverse environmental impacts. Actual emission reductions will be determined based on the projects funded.	FY 2004—2006. Complete once $15 million in TDA Article 3 is allocated by MTC.	See Below	See Below.
TCM C	Transportation for Livable Communities (TLC).	Program provides planning grants, technical assistance, and capital grants to help cities and nonprofit agencies link transportation projects with community plans. MTC would fund only projects that are exempt from CEQA, have no significant environmental impacts, or adequately mitigate any adverse environmental impacts. Actual emission reductions will be determined based on the projects funded.	FY 2004—2006. Complete once $27 million in TLC grant funding is approved by MTC.	See Below	See Below.
TCM 4	Additional Freeway Service Patrol.	Operation of 55 lane miles of new roving tow truck patrols beyond routes which existed in 2000. TCM commitment would be satisfied by any combination for routes adding 55 miles. Tow trucks used in service are new vehicles meeting all applicable CARB standards.	FY 2001. Complete by maintaining increase in FSP mileage through December 2006.	See Below	See Below.
TCM 5	Transit Access to Airports.	Take credit for emission reductions from air passengers who use BART to SFO, as these reductions are not included in the Baseline.	BART—SFO service to start in FY 2003. Complete by maintaining service through 2006.	See Below	See Below.
Total	.....	.....	.....	0.5	0.7

D. Attainment Assessment

Under section 172(c)(1) of the CAA, nonattainment areas are required to submit plans that provide for attainment of the national ambient air quality standards. As stated above, the 2001 Plan is required to provide for attainment of the 1-hour ozone standard ''as expeditiously as practicable'' but no later than September 20, 2006. To provide for expeditious attainment, the 2001 Plan relies on fully adopted regulations, enforceable commitments to adopt new, identified measures (section II.B. above) and, as discussed below, an enforceable commitment to adopt measures to achieve an additional 26 tpd of VOC emission reductions. To support the attainment assessment, the Plan includes additional enforceable commitments, also discussed below, to submit a SIP revision in 2004.

The 2001 Plan contains a simplified modeling analysis, with an explanation and documentation of the modeling approach (2001 Plan, pp. 14–22), using the relevant available data, which is sparse in the period before the CCOS field study can be employed in a more sophisticated Urban Airshed Modeling (UAM) analysis.[13] The limitation of the existing modeling assessment are acknowledged in the plan, and are the

[13] EPA modeling guidance provides that states may rely on a modeled attainnent demonstration supplemented with additional evidence to demonstrate attainment. The modeling analysis for the Bay Area is governed by 40 CFR part 51, Appendix W (6.0 Models of Ozone, Carbon Monoxide and Nitrogen Dioxide): A control agency with jurisdiction over areas with significant ozone problems and which has sufficient resources and data to use a photochemical dispersion model is encouraged to do so. However, empirical models fill the gap between more sophisticated photochemical dispersion models and may be the only applicable procedure if the available data bases are insufficient for refined modeling.

direct result of the shortage of key input data spending completion of the new model. The 2001 Plan employes several different methods, including precursor emission and concentration trends, rollback, and isopleth analyses, to calculate the emissions reductions necessary for attainment. The attainment target is conservatively based on the 2000 ozone isopleth analysis, which generates the largest amount of emissions reductions required for attainment of the various methods employed, and thereby reduces the potential for underestimation of reduction requirements (2001 Plan, p. 22). Given the limitations in the data and considering the conservative approach taken in setting the attainment target, EPA believes that the modeling approach employed in the 2001 Plan reasonably approximates the attainment target.

According to the 2001 Plan's modeling analysis, reductions from the previously adopted and new measures are still not sufficient to attain the 1-hour ozone standard. The estimated shortfall is approximately 26 tons per day (tpd) of VOC reductions. The co-lead agencies indicated that adopting measures to fill the 26 tpd shortfall would require further study. Thus, the co-lead agencies and CARB made an enforceable commitment as part of their 2001 Plan to adopt and submit measures to fill this shortfall (2001 Plan, pages 22, 24, and 34). The State has also made enforceable commitments to submit a SIP revision by April 15, 2004 using the CCOS to reassess attainment needs, and to adopt any additional measures needed to provide for attainment by the 2006 deadline. The CCOS currently under way will provide the data necessary for a more detailed modeling analysis and is expected to be available for the co-lead agencies to use in their mid-course review.

EPA believes—consistent with past practice—that the CAA allows approval of enforceable commitments that are limited in scope where circumstances exist that warrant the use of such commitments in place of adopted measures.[14] [15] once EPA determines that circumstances warrant consideration of an enforceable commitment, EPA believes that three factors should be considered in determining whether to approve the enforceable commitment: (1) Whether the commitment addresses a limited portion of the statutorily-required program; (2) whether the state is capable of fulfilling its commitment; and (3) whether the commitment is for a reasonable and appropriate period of time.

As an initial matter, EPA believes that circumstances in the San Francisco Bay Area warrant the consideration of enforceable commitments. With respect to the commitment to adopt additional measures to ensure attainment by 2006, we have concluded that, at the time of plan adoption, the State and co-lead agencies had adopted, or had committed to adopt, all reasonably available VOC control measures and that no additional measures could be identified. As discussed in more detail below, the great bulk of emission reductions needed for attainment comes from stringent regulations already fully adopted by the co-lead agencies, the State, or the federal government. These previously adopted measures include CARB regulations governing area and mobile sources, BAAQMD regulations governing stationary sources, and federal regulations such as standards that apply to diesel engines and locomotives.

Moreover, after reviewing measures included in other SIPs as well as measures recommended by the public, the co-lead agencies concluded that they had already adopted, or were committing in the 2001 Plan to adopt, essentially all VOC measures that were currently in place in other areas of the country (2001 Plan, page 49). Furthermore, the BAAQMD concluded that they have established or committed to establish emissions limits on VOC sources that are equivalent to those in place in the one extreme area in the country—the South Coast. See 2001 Plan, page 49.

In July 2001, the co-lead agencies and CARB notified EPA that they were unable at the time to identify and therefore adopt any additional programs that would reduce VOC emissions sufficient to fill the shortfall. Because the State and co-lead agencies need additional time to consider technologies still in the developmental stages, EPA determined that it is appropriate to consider enforceable commitments for the remaining necessary reductions.

EPA has also concluded that it was not practicable for the co-lead agencies to complete the rule development and adoption processes prior to plan submittal for the 13 new, identified control measures to which the plan commits and therefore consideration of enforceable commitments is warranted. Because the vast majority of VOC sources are already subject to stringent, adopted rules, it is increasingly difficult to develop regulations for the remaining universe of uncontrolled sources. For example, BAAQMD has committed to adopt an improved architectural coatings rule (see table 2 above). This effort requires an assessment of the emissions reduction potential of establishing coatings restrictions for very small sources, including time-consuming industry surveys and the refinement of emissions factors and emissions inventories. Adoption of stringent new coatings limits also involves collection or development of information to resolve coating performance issues for a large variety of different coatings and applications. Other rules require similar complex research and development work, analysis of compliance options and necessary exemptions, examination of test methodologies (an especially important concern where the VOC emissions standards, as in the Bay Area, approach the monitoring detection limits), and development of provisions to prevent increased reliance on toxic

[14] Commitment approved by EPA under section 110(k)(3) of the CAA are enforceable by the EPA and citizens under, respectively, sections 113 and 304 of the CAA. In the past, EPA has approved enforceable commitments and courts have enforced these actions against states that failed to comply with those commitments: *See, e.g., American Lung Ass'n of N.J.* v. *Kean,* 670 F. Supp. 1285 (D.N.J. 1987), *aff'd,* 871 F.2d 319 (3rd Cir. 1989); *NRDC, Inc.* v. *N.Y. State Dept. of Env. Cons.,* 668 F. Supp. 848 (S.D.N.Y. 1987); *Citizens for a Better Env't* v. *Deukmejian,* 731 F. Supp. 1448, *recon. granted in part,* 746 F. Supp. 976 (N.D. Cal. 1990); *Coalition for Clean Air* v. *South Coast Air Quality Mgt. Dist.,* No. CV 97—6916—HLH, (C.D. Cal. Aug. 27, 1999). Further, if a state fails to meet its commitments, EPA could make a finding of failure to implement the SIP under CAA Section 179(a), which starts an 18-month period for the State to correct the nonimplementation before mandatory sanctions are imposed.

[15] CAA section 110(a)(2)(A) provides that each SIP ''shall include enforceable emission limitations and other control measures, means or techniques* * * as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirement of the Act.'' Section 172(c)(6) of the Act, which applies to nonattainment SIPs, is virtually identical to section 110(a)(2)(A). The language in these sections of the CAA is quite broad, allowing a SIP to contain any ''means or techniques'' that EPA determines are ''necessary or appropriate'' to meet CAA requirements, such that the area will attain as expeditiously as practicable but no later than the designated date. Furthermore, the express allowance for ''schedules and timetables'' demonstrates that Congress understood that all required controls might not have to be in place before a SIP could be fully approved.

air pollutants and stratospheric ozone depleting compounds as the means of compliance with very tight VOC restrictions.

Finally, EPA has determined that the submission of enforceable commitments for the adoption of identified control measures and additional measures necessary to achieve attainment by 2006 will not interfere with the Bay Area's ability to make reasonable progress toward attainment of the standard. By the end of 2003, which is the midpoint between the date of the plan and the attainment year, 46% of the required VOC reductions will have been achieved.[16]

As provided above, after concluding that the circumstances warrant consideration of an enforceable commitment—as they do in the San Francisco Bay Area—EPA will consider three factors in determining whether to approve the submitted commitments. These factors are satisfactorily addressed with respect to CARB's and the co-lead agencies' commitments to adopt and submit both the specified control measures and additional measures to fill the shortfall of VOC emissions reductions.

1. The Commitments Address a Limited Portion of the 2001 Plan

According to the 2001 Plan, 148 tpd of VOC reductions and 123 tpd of NO_X reductions are required to attain the 1-hour ozone standard. As noted above, the State, the co-lead agencies and the federal government have previously adopted measures that will in large part achieve the required reductions by providing 108.6 tpd of VOC reductions and 122.8 tpd of NO_X reductions. (2001 Plan, Tables 10 and 11.) This is reflected in the Bay Area planning inventory, which incorporates future year emission reductions from all regulations adopted as of December 31, 2000. Table 4 of the 2001 Plan shows that previously adopted mobile source regulations will reduce on-road motor vehicle VOC emissions from 227.0 tpd in 2001 to 168.5 tpd in 2006, and off-road mobile source emissions from 67.3 tpd to 54.0 tpd. As a result of previously adopted consumer products regulations, VOC emissions from this category will be reduced from 52.2 tpd to 46.4 tpd for the same period. These sharp reductions take into account substantial growth in population and activity levels. Previously adopted BAAQMD regulations contribute additional reductions in VOC emissions from industrial and commercial sources, whose emissions are reduced from 171.2 tpd in 2001 to 157.0 tpd in 2006.

In contrast, the new, identified control measures to which the BAAQMD commits in the plan are expected to reduce VOC emissions by only 12.7 tpd and NO_X emissions by 0.7 tpd by 2006. The 2001 Plan's commitment to adopt additional unspecified measures to fill the shortfall needed to reach attainment will achieve 26 tpd of VOCs. Thus, these combined commitments represent a relatively small amount of the total reductions needed for attainment, only 0.6% of NO_X reductions and 26% of VOC reductions, or 14% of total reductions needed to reach attainment.

2. The State and the Co-lead Agencies Are Capable of Fulfilling their Commitment

In many cases the new measures that are the subject to commitments in the 2001 Plan have already been adopted and/or implemented and emissions reductions are being achieved. For example, Rule 8–3 (SS–11) was adopted on November 21, 2001 and submitted to EPA on June 18, 2002; Rule 8–5 (SS–12) was adopted on November 27, 2002 and submitted to EPA on January 21, 2003; Rules 8–14 and 8–19 (SS–13) and Rule 8–16 (SS–14) were adopted on October 16, 2002 and submitted to EPA on April 1, 2003.[17] Furthermore, we are confident that CARB and the co-lead agencies will be able to meet the 26 tpd commitment. They have made progress on their further study measures and, if necessary, could adopt a declining VOC cap applicable to stationary sources.

3. The Commitments Are for a Reasonable and Appropriate Period of Time

The adoption, implementation, and submittal dates for the new control measures reflect a reasonable amount of time for the development and implementation of each measure. The commitment to identify the control measures that will enable the Bay Area to reach attainment must be fulfilled by March 2004, when the revised plan is to be adopted by the co-lead agencies. In light of the co-lead agencies' demonstration that they need additional time to consider technologies that are still in the developmental stages, this time frame is reasonable and appropriate.

For the above reasons, EPA is proposing to approve as one element of the attainment assessment the 2001 Plan's enforceable commitments to adopt and submit the specified control measures listed in II.C. above and to adopt additional measures as necessary to attain the 1-hour ozone standard by 2006, which we find to be the most expeditious attainment date practicable. Based on the previously adopted measures and these commitments, the 2001 Plan demonstrates that the Bay Area will achieve sufficient reductions to attain the 1-hour ozone standard by 2006. Therefore we are proposing to approve these commitments and the attainment assessment as meeting the requirements of section 172(c)(1) of the CAA.

E. Motor Vehicle Emissions Budgets for Use in Transportation Conformity

EPA's conformity rule, 40 CFR part 93, requires that transportation plans, programs, and projects conform to the SIP and establishes the criteria and procedures for determining whether or not they do conform. Conformity to a SIP means that transportation activities will produce no new air quality violations, will not worsen existing violations, and will not delay timely attainment of the NAAQS (CAA section 176(c)(1)).

One of the primary tests for conformity is to show that transportation plans and improvement programs will not cause motor vehicle emissions higher than the levels needed to make progress toward and to meet the air quality standards. The motor vehicle emissions levels needed to make progress toward and to meet the air quality standards are set in the area's air quality implementation plans and are known as the ''motor vehicle emissions budgets.'' Emissions budgets are established for specific years and specific pollutants. See 40 CFR Part 93.118(a). The 2001 Plan (page 30) includes budgets of 164.0 tpd for VOC and 270.3 tpd for NO_X, both for the attainment year, 2006. These budgets are based on projected emissions for motor vehicles in the attainment year and take into account expected growth and were developed using San Francisco Bay Area EMFAC 2000.[18]

On February 14, 2002 we found the 2006 motor vehicle emission budgets in the 2001 Plan adequate for transportation conformity purposes. The adequacy finding was based on our preliminary determination that the plan provides for timely attainment of the 1-hour ozone standard in the San Francisco Bay Area and that the criteria

[16] For additional detail, see the co-lead agencies' April 10, 2003 progress report.

[17] For additional detail, see the co-lead agencies' April 10, 2003 progress report.

[18] EMFAC is California's motor vehicle emissions model and is similar to EPA's Mobile 6 model, which is used elsewhere outside of California. EPA approved EMFAC 2000 for use in the Bay Area on January 11, 2002 (67 FR 1464).

in 40 CFR 93.118(e)(4) of the conformity rule were satisfied. As a result of our adequacy finding, the Metropolitan Transportation Commission and the Federal Highway Administration are required to use these budgets in conformity analyses.

Upon further review, EPA has confirmed its preliminary determination that the submitted plan demonstrates attainment in the Bay Area by 2006 and that the motor vehicle emissions budgets are consistent with the plan. The budgets were derived using the most accurate and up-to-date planning assumptions and emissions model available at the time of the plan submittal. We are therefore proposing to approve the 2006 motor vehicle emissions budgets.

The co-lead agencies and CARB have committed to completing a mid-course review of the plan by December 15, 2003 and to submit a revised plan by April 15, 2004. In order to be approvable, the new plan must derive its inventory and motor vehicle emissions budgets using EMFAC2002, which is an updated and improved revision to EMFAC2000 that was recently approved and is now available for SIP planning (68 FR 15720, April 1, 2003).

Because EMFAC2000 has certain technical limitations, EPA approved it only for use in development of ozone motor vehicle emissions factors for SIP development and future conformity determinations in the San Francisco Bay Area. It was superior to prior models available for use in the area and the improved EMFAC 2002 was not yet available.

EPA is proposing to approve the EMFAC2000-derived motor vehicle emission budgets in the Bay Area ozone SIP only until new budgets developed with the new model are submitted pursuant to commitments in the SIP and found adequate for conformity purposes. See 67 FR 1464, January 11, 2002. Normally, new budgets cannot replace existing budgets in approved plans if they are for the same Clean Air Act requirement and year until the new budgets are approved as part of the SIP (see 40 CFR 93.118(e)). In this case, our approval of the budgets in the 2001 Plan will expire upon EPA's determination that the new budgets, which will be developed using EMFAC2002 and are scheduled to be submitted in April 2004, are adequate. We have taken this approach because budgets developed with EMFAC2002 will be more accurate than those developed using EMFAC2000. An adequacy determination can usually be made within a few months of plan submission. Therefore, by limiting the duration of our approval of the EMFAC2000-derived budgets to the point when the updated budgets are found to be adequate, the updated budgets may be in place within a few months of their submission, rather than when the SIP is finally approved, which could take as long as 18 months.

III. Mid-Course Review and 2004 Plan

The co-lead agencies and CARB have made an enforceable commitment to perform a mid-course review by December 15, 2003 that will include an evaluation of the modeling from the CCOS and the latest technical information (*e.g.*, inventory and monitoring data) to determine the level of emission reductions needed to attain the ozone standard. The co-lead agencies have also committed to adopt a SIP revision by March 2004 that includes a revised attainment target and new control measures as needed to attain by 2006. In addition, the co-lead agencies and CARB committed to submit a revised ozone attainment plan by April 15, 2004 that will include new control measures as needed to attain by 2006. As discussed in section II.D. above, EPA is proposing to approve these commitments as part of the attainment assessment under CAA section 172(c)(1).

The commitments have been adopted by CARB and the co-lead agencies for several reasons. As noted in Section II.D. above, the 2001 Plan's modeling assessment has its limitations, which are the direct result of the shortage of key input data. This lack of input data has resulted in some uncertainty regarding the amount of emissions reductions that will be necessary to attain the 1-hour ozone standard. However, the CCOS will provide a more comprehensive and reliable data base for future ozone analyses. The modeling for the 2004 Plan will use recent episodes from 1999 and 2000 and will be supported by more extensive field measurements.[19] It will also rely on improved emission inventory modeling and meteorological inputs. This information should result in a more reliable determination of whether the amount of emissions reductions required in the 2001 Plan will be sufficient for the Bay Area to attain the ozone standard. The information will be used to establish revised attainment targets, if necessary, in the 2004 plan. In addition, the CCOS should illuminate the contribution that pollution generated in the Bay Area makes to air quality in downwind areas.

The mid-course review and 2004 plan revision will also provide the co-lead agencies an opportunity to update key information in the plan that is currently being refined by additional study. As noted above, EPA recently approved EMFAC2002, California's new motor vehicle emissions model. Use of EMFAC2002 will improve the accuracy of the motor vehicle emissions inventory, which will allow planners to better forecast the impact of transportation projects on air quality and to adjust the motor vehicle emissions budgets. In addition, the co-lead agencies and CARB have committed to study specified measures to determine whether significant additional emission reductions can be achieved and whether implementation is feasible. As noted in section II.B. above, EPA is proposing to approve this commitment. The MTC's and BAAQMD's ongoing work on their further study measures is providing new information, particularly with regard to refinery and marine vessel loading emissions, that will result in inventory corrections and should lead to the adoption of new control measures. The information generated by the further study measures and work being done in other areas of the country will also enable the co-lead agencies to update their RACM analysis. The progress that has been made in all of these areas, both locally and nationally, should enable the co-lead agencies and CARB to submit a more technically advanced plan in 2004.

IV. Summary of Proposed Action

Because EPA has determined that these plan elements meet the requirements of CAA section 172(c), the Agency is proposing to approve the emissions inventory and the RACM demonstration. EPA is also proposing to approve, as meeting the requirements of section 172(c)(1), the attainment assessment and associated motor vehicle emissions budgets, and commitments to (1) adopt 13 new stationary, area, mobile source, and transportation control measures; (2) conduct a mid-course review by December 15, 2003 that will include an evaluation of the modeling from the Central California Ozone Study and the latest technical information (inventory data, monitoring, etc.) to determine whether the level of emission reductions in the 2001 Plan is sufficient to attain the 1-hour ozone standard; (3) to adopt a SIP revision by March 2004 that includes a revised attainment target

[19] An overview of the photochemical modeling for the Bay Area's 2004 ozone attainment plan is available on line at *http://www.baagmd.gov/planning/2004sip/modelpg.htm.*

and new control measures as needed to attain by 2006; and (4) to submit the SIP revision to EPA by April 15, 2004. Finally, we are proposing to approve under section 110(k)(3) as strengthening the SIP the commitment to study specified measures to determine whether significant additional emission reductions can be achieved and whether implementation is feasible.[20]

Elsewhere in this **Federal Register** we are making an interim final determination that the 2001 Plan corrects the deficiencies in the 1999 Plan. As a result of this determination, the offset sanction is stayed while EPA considers whether to issue a final full approval. A final full approval action on these elements would terminate the sanctions clock that was started as a result of the earlier disapproval; if we disapprove the 2001 Plan on the basis that one or more of the disapproved components is still insufficient, the offset sanction will apply on the effective date of the disapproval.

V. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: July 7, 2003.

Wayne Nastri,

Regional Administrator, Region IX.

[FR Doc. 03–17972 Filed 7–15–03; 8:45 am]

BILLING CODE 6560–50–U

[20] EPA is aware of the pending lawsuit regarding the 2001 Plan in California Superior Court in San Francisco, *Communities for a Better Environment et al.* v. *Bay Area Air Quality Management District et al.*, Case No. 323849. Prior to taking final action on the plan, we will evaluate any decision of the Court in that case to determine what effect, if any, it has on our rulemaking.

Federal Register

Wednesday,
July 16, 2003

Part III

Department of Housing and Urban Development

Responses to Notice of Certification and Funding of State and Local Fair Housing Enforcement Agencies Under the Fair Housing Assistance Program (FHAP); Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4688–N–02]

Responses to Notice of Certification and Funding of State and Local Fair Housing Enforcement Agencies Under the Fair Housing Assistance Program (FHAP)

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Notice.

SUMMARY: Under HUD's regulations addressing the certification of state and local fair housing enforcement agencies under the Fair Housing Assistance Program (FHAP), HUD is required to (1) Periodically inform the public of certified and interim certified agencies and identify those agencies where a denial of interim certification or withdrawal of certification has been issued or proposed; and (2) solicit comments from the public, prior to HUD granting certification to state or local fair housing enforcement agencies. On February 27, 2002, a notice fulfilling these requirements was published. The following notice identifies and responds to the comments received.

DATES: *Effective Date:* July 16, 2003.

FOR FURTHER INFORMATION CONTACT: Myron P. Newry or Kenneth J. Carroll, FHIP/FHAP Support Division, Office of Programs, Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 5222, Washington, DC 20410–0001, at (202) 708–2215 (this is not a toll-free number). Persons with speech or hearing impairments may contact the Office of Programs by calling 1–800–290–1617, or 1–800–877–8399 (the Federal Information Relay Service TTY).

SUPPLEMENTARY INFORMATION: Seven organizations responded to the February 27, 2002, public notice. Four of the seven organizations identified issues with the Tennessee Human Rights Act (THRA) and with the way that the Tennessee Human Rights Commission (THRC) administers that law. One organization identified issues with the New York State Human Rights law and with the way that the New York State Division of Human Rights administers that law. One organization identified issues with the Pennsylvania Human Relations Act. Finally, one organization expressed support for the Vermont Human Rights Commission (this comment will not be discussed below).

Comments and Responses Regarding the Tennessee Human Rights Commission

Comment. The THRC had only one administrative hearing in the past seven years.

According to the Department's records, this is not true. From December 31, 1995, to December 31, 2002, THRC had two administrative hearings. Discrimination was found in each of those cases. In addition, during this time period, THRC had one judicial consent order. Finally, from December 31, 1995, to December 31, 2002, THRC conciliated 62 cases prior to a THRC finding, to the satisfaction of all parties involved. THRC has a statutory duty to attempt settlement of cases through conference, conciliation, and persuasion during the investigation and enforcement process, and the Department views this as an acceptable method of case disposition.

Comment. Complainants and respondents do not receive sufficient notice of time frames and forum options during THRC's fair housing complaint investigation, conciliation, and enforcement activities.

THRC sends notification letters to respondents and complainants in every case. The notification letters state that the complainant has a right to pursue a civil cause of action in chancery court or circuit court within one year of the last alleged act of discrimination. The notification letters also inform the parties that the time limit to file a private cause of action in court will continue to run when the complaint is pending at THRC. Finally, the notification letters set forth procedures for the election of civil proceedings, the period of time parties have to elect, and the amount of time the commission has to file in court when a party elects civil proceedings.

With one exception, the Department views the notification letter as sufficiently notifying the parties of time frames and forum options. Concerning the issue of informing the parties that the time limit to file a private cause of action in court will continue to run when the complaint is pending at THRC, the letter shall be revised. Pursuant to the Department's recommendation below under the comment, ''The time limit for filing a private lawsuit under THRA is not tolled by filing a complaint with THRC,'' the letter must clearly inform the parties of the procedure (as recommended by HUD) that THRC will utilize when a dual-filed complaint being processed by THRC is close to the one-year time limit to file a private cause of action in court.

Comment. THRC complaint forms must be notarized and complainants must submit a notarized affidavit form with the complaint form.

There is no statutory requirement that complaints be notarized under the THRA. However, THRC's rules state that ''[t]he complaint shall be in writing and must be signed and sworn to before a notary public or other person duly authorized by law to administer oaths and take acknowledgements.'' The purpose of the notarization requirement, according to THRC, is ''to provide some degree of insurance against catchpenny claims of disgruntled, but not necessarily aggrieved, persons.'' Regulations implementing the Federal Fair Housing Act (FHAct), at 24 CFR section 115.202 (a)(3), provide that a state or local law that is substantially equivalent to the FHAct must not ''place excessive burdens on the complainant that might discourage the filing of complaints, such as * * * [p]rovisions that could subject a complainant to costs, criminal penalties, or fees in connection with filing complaints.'' A notarization requirement may place a financial and logistical burden on a complainant. However, THRC's rules also provide that notary public service ''shall be furnished without charge by the Commission.'' Moreover, THRC has recently proposed rules allowing complaints to be ''verified'' instead of notarized. According to THRC, the term ''verified'' would be defined more broadly than notarization, allowing complaints to be sworn to persons other than a notary public, including designated representatives of THRC. Complaints would also be ''verified'' if they were supported by a declaration in writing under penalty of perjury. HUD will require THRC to enact the rule that complaints may be ''verified'' (instead of notarized) and all that is necessary for a complaint to be ''verified'' is that it be supported by a declaration in writing under penalty of perjury.

Comment. It is not THRC's ''practice'' to interview complainants as part of the investigative process.

THRC disputes this comment. According to THRC, investigators are continually instructed and reminded that they cannot complete an investigation without interviewing, at a bare minimum, the complainant, the respondent, and any relevant witnesses. The Department's performance assessments of THRC and the Department's review of THRC's dual-filed cases indicate that complainants, respondents, and all relevant witnesses

are interviewed as a customary part of THRC's investigative process.

Comment. THRC often stops investigating a complaint once the respondent articulates a plausible nondiscriminatory reason for the behavior.

THRC disputes this comment. According to THRC, absent direct evidence of discrimination, respondents must articulate legitimate, nondiscriminatory reasons for their behavior to rebut a prima facie case of discrimination. THRC then verifies those reasons to the extent factually possible. Faced with a nondiscriminatory reason, the complainant must then provide evidence to THRC showing that the respondent's reasons are false and that the real reason is discrimination. The Department's performance assessments of THRC confirm that THRC sufficiently investigates complaints following a respondent's articulation of a plausible nondiscriminatory reason for the alleged discriminatory behavior.

Comment. THRC assigns investigators from one region of Tennessee to investigate complaints originating in another region of Tennessee.

The duty station of an agency's investigators does not affect certification so long as complaints are appropriately investigated. The assignment of investigators is an internal management decision for THRC. Absent credible evidence that parties are being harmed by THRC assigning investigators from different regions of Tennessee, HUD will not impose requirements on THRC regarding this issue. In any event, THRC states that this is not its general practice. THRC has housing employees in Knoxville, Memphis, Nashville, and Kingsport, Tennessee. While investigators do occasionally investigate cases in regions other than their own, this is not THRC's routine practice.

Comment. If an investigator's employment at the THRC ends during a pending investigation and a new investigator is assigned, the investigation often starts at the beginning. This result is exacerbated by a high turnover rate among THRC investigation staff.

THRC disputes this comment and contends that it does not have a high turnover rate in housing investigators. THRC employs 31 people in six offices throughout the state. Since May of 2000, only one housing employee left THRC, and this person was not an investigator.

Comment. THRC knowingly employed at least one investigator with a felony conviction.

THRC acknowledges that this is true. However, the individual no longer works at THRC. HUD will require THRC to implement hiring procedures to assure that individuals with felony convictions will not be hired in the future.

Comment. THRC did not conduct an initial site visit for a case until approximately one year after the complaint for that case was filed. In addition, as of March 21, 2002, no one from the named complainant organization had been interviewed regarding that case. Finally, as of March 21, 2002, THRC had not made a finding in the case.

THRC declined to discuss the particulars of the case because that case is still open and such discussion would violate the confidentiality requirement under Tennessee law. Tennessee Code Annotated 4–21–303(d) makes THRC investigative files confidential. In addition, according to THRC, Tennessee Attorney General Opinions 80–082 and 87–93 state that investigative case files of the Commission are confidential and are exempt from disclosure to all but the parties (or their representatives) involved in an action. THRC was especially reluctant to discuss the specifics of the case because such comments would be published in the **Federal Register**. HUD did confirm that a site visit was conducted in the case, appropriate parties were interviewed, and a finding was made.

Comment. The time limit for filing a private lawsuit under THRA is not tolled by filing a complaint with THRC.

Under THRA, the time limit to file a fair housing complaint with THRC is 180 days from the last alleged discriminatory act. The time limit to file in court under the THRA is one year from the last alleged discriminatory act. The period of time a complaint is with THRC is included in calculating the one-year time limit for filing in court. This is in contrast to the FHAct, which provides that the time limit for filing a private lawsuit is tolled by filing a complaint with HUD. HUD will require THRC to adopt a procedure to assure that parties' rights will not be compromised by THRA's provision. The procedure will apply when a dual-filed case being processed by THRC is close to the one-year time limit to file a private cause of action in court.

Comment. THRA does not specify a time frame within which an administrative hearing must be conducted.

Section 304 of THRA provides that, in housing discrimination cases, a hearing shall be ''commenced'' if there is a determination of cause, conciliation has not been successful, and neither party has elected for a civil suit within 90 days of the filing of the complaint. THRA does not specifically provide for a time within which the administrative hearing must commence. The FHAct provides that a hearing be conducted within 120 days of the issuance of the charge of discrimination. Despite the difference, HUD does not view this omission as constituting a fatal flaw that would render the statute not substantially equivalent to the FHAct.

Comment. THRA does not sufficiently inform the complainant and the respondent of their forum options.

Section 312 of THRA clearly provides that, within 90 days of the complaint having been filed, if it has not been conciliated, THRC shall notify the parties that they may elect to have the issues adjudicated in a civil action. According to THRA, parties have 20 days from the date of receipt of the notice in which to elect (this is 110 days from the date of the filing of the complaint). THRA states that a civil action shall commence within 60 days of the election. While it is true that no provision of THRA explicitly states that a complainant can choose either the administrative or the judicial forum, various sections of the THRA provide the choice to the parties (See sections 302 and 304 of the THRA). HUD views THRA as sufficiently informing the complainant and the respondent of their forum options.

Comment. THRA does not include time limits that findings must be made, time limits for the issuance of charges, or time limits between the reasonable cause finding and the issuance of a charge.

The regulations setting forth the legal criteria for substantial equivalency certification, located at 24 CFR 115.202, mandate that a substantially equivalent agency utilize the following time frames: (1) The commencement of proceedings after a complaint is filed must be within 30 days; (2) the completion of the investigation must be within 100 days (or if it is impracticable to do so, the agency must notify the parties in writing of the reasons(s) for the delay); and (3) final disposition of the complaint must be within one year (or if it is impracticable to do so, the agency must notify the parties in writing of the reasons(s) for the delay). The Department does not require substantially equivalent agencies to have time limits above and beyond these.

Section 302 of THRA provides that an investigation of a complaint be undertaken promptly within 30 days of the filing of the complaint. The THRA does not require that the investigation be completed within any specified

period. However, the Agreement for the Interim Referral of Complaints and Other Utilization of Services (Interim Agreement) between HUD and THRC requires that THRC complete the investigation within 100 days or, if THRC is unable to do so, it shall notify the parties in writing of the reasons for the delay. Similarly, THRA does not require that final disposition be within one year of receipt of the complaint. However, the Interim Agreement between HUD and THRC requires that final disposition of complaints occur within one year, or if THRC is unable to do so, it shall notify the parties in writing of the reasons for the delay. When HUD conducts performance assessments of THRC and reviews cases dual-filed with THRC, HUD monitors THRC's compliance with the time frames enumerated in THRA and the time frames enumerated in the Interim Agreement.

Comment. The FHAct's design and construction requirements mandate that all ground floor units of covered dwellings be accessible. THRA only mandates that each covered building have one accessible entrance.

The comment is confusing. The commenter is identifying seemingly contradictory provisions of the FHAct and THRA. However, further analysis indicates that the provisions are not inconsistent. It is true that the FHAct's design and construction requirements require that all ground floor units in covered dwellings contain certain accessibility features. However, HUD accessibility requirements further clarify that each covered building need only have one accessible entrance to the building itself. Similarly, THRA requires that all ground floor units in covered dwellings contain certain accessibility features. As the commenter points out, THRA also states that each covered building need only have one accessible entrance to the building itself. The FHAct and THRA are consistent on this issue.

Comments and Responses Regarding the New York State Division of Human Rights (the Division)

Comment. A complainant in New York should be able to choose whether his/her complaint is processed in the federal administrative forum or in the state administrative forum.

Allowing a complainant in New York to choose whether his/her complaint is processed in the federal administrative forum or the state administrative forum would contravene the FHAct. When HUD grants certification or interim certification to a state or local fair housing enforcement agency, it has determined that the agency administers a law that is substantially equivalent to the FHAct. Section 810(f) of the FHAct provides that HUD shall refer complaints to agencies with certification when the complaint alleges a discriminatory housing practice within a jurisdiction served by the certified agency. Except in limited circumstances, HUD will take no further action with respect to complaints that it refers to certified agencies. These circumstances include the following: (1) If the certified agency is either untimely in its commencement of proceedings or if, after commencement, it carries forward such proceedings without reasonable promptness; (2) when HUD determines that the agency no longer qualifies for certification; and (3) if the agency agrees to HUD's reactivation of the complaint. If none of these circumstances apply, once a complaint is dual-filed at HUD and at the substantially equivalent agency, the substantially equivalent agency will conduct the complaint investigation, conciliation, and enforcement activities.

Similarly, the commenter stated that if a complainant withdraws a complaint from the Division, the complaint should not automatically be withdrawn from HUD. Again, under the FHAct, a complainant is not permitted to choose between HUD and the Division. If a complainant withdraws a complaint, the complaint will be considered withdrawn from both the Division and HUD.

Comment. Staff of the New York State Division of Human Rights (the Division) has received insufficient training in handling fair housing cases.

Since the Division received interim certification in 1999, Division staff has received extensive fair housing training. HUD-sponsored training has included instruction on conducting intake, investigation, conciliation, interviewing techniques, and case management. Additionally, Division staff have been trained on fair housing investigation and law in general as well as disability fair housing issues, testing, discriminatory advertising, and proving intimidation, harassment, and retaliation.

Shortly after the Division received interim certification, a four-day, Division-specific fair housing training was held at HUD's New York State Office. The Division's executive staff, investigators, attorneys, and administrative law judges attended this training. Division staff has also participated in national and regional HUD-sponsored fair housing training, including the FHIP/FHAP Quad Regional Conference in Philadelphia, Pennsylvania, during August 2001 and the National Fair Housing Policy Training Conference in Orlando, Florida, during June 2002. Training sessions have been held in all of the Division's offices. HUD reviews cases investigated by the Division. HUD staff travel to all Division offices on an on-going basis and provide training and technical assistance. Finally, since 1999, HUD has had frequent, often daily, communications with the Division's executive staff, regional directors, housing unit staff, and investigators.

Comment: After issuing a finding in a particular case, the Division failed to notify the complainant's designated representative of the determination.

The Division admits that it failed to inform the designated representative of the determination in a particular case. The Division responded that this was an oversight and, once learned, the mistake was ''quickly remedied.''

Comment: The Division limits its investigations to violations of the New York State Human Rights Law and does not investigate violations of the federal Fair Housing Act.

The Division limits its investigations to violations of the New York State Human Rights Law because it has no authority to administer or enforce the FHAct. The power to administer and enforce the FHAct lies with HUD.

HUD has certified New York State Human Rights Law as ''substantially equivalent'' to the FHAct. The Division has the authority to administer and enforce this law. Any complaints that allege a violation of the FHAct that are not covered by the New York State Human Rights Law, will be referred by the Division to HUD for processing. Similarly, HUD will not refer complaints it receives to the Division that are not covered by the New York State Human Rights Law.

Comment: The Division does not process and investigate complaints in a timely manner.

HUD's review of the Division's work indicates that complaints are usually processed and investigated in a timely manner and, when it is impracticable to meet required time frames, the Division informs parties of the reasons for the delay.

Comment: After HUD refers a complaint to the Division, there are delays of approximately two to four weeks in which the Division requires that the complainant have complaints notarized and drafted in Division language and forms.

The Division disagrees that there are delays of two to four weeks and alleges that necessary documentation is mailed to the complainant and the respondent

within a few days of receipt of a referral from HUD. HUD's review of the Division's work corroborates its position.

Comment: The Division legal staff has insufficient state court and federal court trial experience.

According to the Division, a majority of the Division legal work is not in state court, but in administrative hearings. Given this, the Division has hired an attorney with extensive state court trial experience. In regards to federal court trial experience, HUD will not require the Divison's legal staff to have such experience because HUD certified the Division to administer and enforce a substantially equivalent state law, not a federal law.

Comment: The Division should not separate cases when an organization and a bona fide complainant file with the Division.

The commenter responded on behalf of an organization. The organization alleges that the separation of complaints arising out of the same set of facts places unreasonable demands on an organization's time. The organization must respond to the Division's requests for information on its own behalf. Additionally, if it is a designated representative of the *bona fide* complainant, the organization will assist the complainant in providing information to the Division.

The Division states that it separates complaints to assure that organizations, which may have legitimate claims for damages, receive compensation when appropriate. Though the complaints arise out of the same alleged act of discrimination, issues of standing and damages may be different and may require different fact-finding and analysis. The lack of commonality on these issues justifies breaking the case into different complaints.

To save the organization time, the Division permits submission of the same documentation for its complaint and the bona fide complainant's complaint, provided identical documentation is appropriate for both the organization and the bona fide complainant. HUD will not require the Division to change its procedure on this issue.

Comment: The Division often fails to provide notice for conferences or fails to provide correct and adequate notice to parties and designated representatives in fair housing cases. In addition, prior to scheduling conferences, the Division often fails to check on the ability of parties and designated representatives to attend.

The organization that commented on this issue identified two cases where respondents failed to appear at conferences. The Division contends that it sufficiently informed the respondents of the conference in both of these cases and always does. The Division stated that at intake it records the names and addresses of the respondents. The Division then mails all notices to the parties at the addresses that were provided at intake. If the notice is not returned by post office, there is a presumption of receipt. HUD will suggest to the Division that it conduct some additional investigation to assure that the respondent's address is correct prior to sending the notice of conference. Hopefully, such a process would lessen the number of respondents who fail to show up at conferences.

The organization states that a more efficient practice in notifying parties of conferences is to check the parties' schedules prior to scheduling a conference. In response, the Division stated that it has always rescheduled matters at any party's request (including the organization's) and will continue to do so in order to conduct a thorough investigation. HUD concludes that the method of scheduling conferences is an internal management decision for the Division and will not require the Division to adopt a particular scheduling procedure for purposes of maintaining substantial equivalency certification.

Comment: The Division did not follow up when notified of a respondent's failure to perform some settlement term. The settlement term involved fair housing training for the respondent.

In the case that the organization is referring to, the Division does not recall being notified that training had not been conducted. The Division has a compliance unit that ensures that the terms of the orders and settlements are satisfied. The Division has informed HUD that it will investigate this matter and ensure that the settlement term is met.

Comment: Unlike the federal Fair Housing Act, New York law exempts all 2-family, owner-occupied housing from application of fair housing laws.

The relevant regulation, at 24 CFR section 115.202 (a) (4), provides that ''[i]n order for a determination to be made that a state or local fair housing agency administers a law which, on its face, provides rights and remedies for alleged discriminatory housing practices that are substantially equivalent to those provided in the Act, the law or ordinance must * * * not contain exemptions that substantially reduce the coverage of housing accommodations as compared to section 803 of the Act.''

The New York law exempts rental units in two-family homes occupied by the owner. This exemption does not substantially reduce the coverage of housing accommodations as compared to section 803 of the Act. In its counterpart provision at section 803(b)(2), the FHAct exempts an owner from coverage if he/she rents out rooms in a house that contains quarters for four or fewer families and the owner lives in the house.

In actuality, the New York law increases the coverage of housing accommodations compared to section 803 of the FHAct since, unlike the FHAct, individuals will be protected from discrimination if there are quarters for three or four families. These individuals would not be protected under the FHAct. While such complaints may not be dual-filed, the Department does not view New York's divergence on this issue as jeopardizing the Division's substantial equivalency certification.

Comment: The Division largely ignores requests for prompt intervention.

The commenter refers to two cases where a request for prompt intervention was denied. In one case, the complainant alleged a denial of housing in February 2001. However, the complaint was not filed until March 2002. Since the complaint was filed more than one year after the alleged discriminatory act, the Division correctly dismissed the complaint for untimeliness. In the other case, prompt intervention was unnecessary because the Division was able to secure the landlord's withdrawal of the termination of tenancy. Moreover, contrary to the comment, the Division contends that it has been successful on several occasions in staying eviction proceedings pending the Division's administrative process.

Comments and Responses Regarding the Pennsylvania Human Relations Act (PHRA)

Comment: In discriminatory advertising cases, the PHRA limits civil penalties to a maximum of $500 where the complainant is not actually denied housing based upon discriminatory language of the advertisement.

This is different than the FHAct. The FHAct does not require that the complainant demonstrate that he or she was actually denied housing before the full range of civil penalties may be imposed on a respondent in a discriminatory advertising case. Rather, advertisers and publishers of discriminatory advertisements bear full liability under the Fair Housing Act. See, *United States* v. *Hunter,* 459 F.2d 205 (4th Cir. 1972), cert. denied, 409

U.S. 934 (1972). Discriminatory housing advertisements represent ''precisely one of the evils the [Fair Housing] Act was designed to correct.'' *Id.,* at 211.

The Department objects to any attempt to limit the liability of advertisers or publishers, regardless of the fact that the limitation applies to civil penalties payable to the government, rather than to actual damages payable to an aggrieved person(s). In addition, the practical effect of the provision is to treat one class of respondents differently, *i.e.,* more favorably, than any other class of respondents. Such an approach is inconsistent with the goals and purposes of the Fair Housing Act. PHRA's civil penalty cap is especially inappropriate in that the maximum allowable civil penalty in any case where a complainant is not actually denied housing is significantly less than that allowed for even a first violation under the FHAct.

As such, discriminatory advertising complaints received by HUD that do not involve an actual denial of housing will not be referred to the Pennsylvania Human Relations Commission (PHRC) for dual filing and will be processed under the provisions of the FHAct, not the provisions of the PHRA. In addition, HUD will require PHRC to refer to HUD for processing any discriminatory advertising complaints that do not involve an actual denial of housing.

Comment: PHRA sets forth affirmative defenses to a finding that an advertiser has knowingly and willfully violated PHRA. Such affirmative defenses are not included in the FHAct.

Section 9.1(c) of the PHRA sets forth several affirmative defenses to a finding that an advertiser has knowingly and willfully violated PHRA. The affirmative defenses include the following: (1) If the advertiser in good faith attempted to comply with the list and specific examples of impermissible housing advertisements promulgated and published by the PHRC; (2) if the advertiser complied with an interpretation of the commission or its personnel concerning what constitutes appropriate housing advertisements; and (3) if the advertiser has made reasonable efforts in good faith to comply with PHRA. These affirmative defenses do not exist in the FHAct. The Department concludes that the affirmative defenses narrow the rights of aggrieved persons. As such, discriminatory advertising complaints received by HUD that implicate the affirmative defenses enumerated in section 9.1(c) of the PHRA will not be referred to PHRC for dual filing and will be processed under the provisions of the FHAct, not the provisions of the PHRA. In addition, HUD will require PHRC to refer to HUD for processing any discriminatory advertising complaints that may implicate the affirmative defenses enumerated in section 9.1(c) of the PHRA.

Comment: In certain circumstances, attorney fees may be awarded to a respondent under PHRA.

Section 9(d)(4) of the PHRA states that ''[i]f after a trial, the Commonwealth Court finds that a respondent has not engaged in any unlawful discriminatory practice as defined in this act, the court may award attorney fees and costs to the prevailing respondent if the court determines that the complaint is frivolous and that the Commission dealt with the party complained against in a willful, wanton, and oppressive manner, in which case, the Commission shall be ordered to pay such costs and attorney fees.'' The Department does not view this as a problem since the FHAct has a similar provision. The FHAct authorizes the payment of attorney fees and costs to a ''prevailing party'' (other than the United States) whether it be the complainant(s), other aggrieved person(s), or the respondent(s). See 42 U.S.C. section 3612(p).

Comment: Under PHRA, cases will be dismissed where the respondent offered an appropriate remedy and the complainant rejected the remedy.

Section 9(c.1) of PHRA states that ''The Commission shall dismiss a case with prejudice, before, or after a finding of probable cause, where in its opinion, appropriate remedy has been offered by the respondent and refused by the complainant.'' The FHAct has no corresponding provision. The FHAct encourages conciliation and settlement but does not require complainants to accept settlement offers, however appropriate settlement offers might appear. PHRA has informed the Department that since it is impossible to precisely quantify embarrassment and humiliation damages, PHRC has interpreted the section in such a way that does not cover those cases in which embarrassment and humiliation damages are available. PHRC informed HUD that it views all cases dual-filed with HUD as possibly resulting in embarrassment and humiliation damages. Therefore, it will not dismiss these cases in accordance with section 9(c.1). HUD will include a provision in the Memorandum of Understanding (MOU) between HUD and PHRC stating that section 9(c.1) will not be applied to any dual-filed cases. The MOU will also require PHRC to inform complainants in dual-filed cases that complaints will not be dismissed where the respondent offered an appropriate remedy and the complainant rejected the remedy.

Comment: *In Hoy* v. *Angelone, 720 A.2d 745 (Pa. 1998), the Pennsylvania Supreme Court held that punitive damages are not available in court proceedings brought under the PHRA.*

The *Hoy* case involved employment discrimination, and it is unclear whether the court would rule in the same manner in a housing case. If the Pennsylvania courts were to rule that punitive damages are not available in cases involving housing discrimination, this would raise a significant substantial equivalency issue because punitive damages are available in court proceedings under the FHAct. HUD's understanding is that there have been no post-*Hoy* Pennsylvania court decisions in which punitive damages were sought as a remedy for housing discrimination. HUD will continue to monitor developments in this area to see how the Pennsylvania courts address this issue with respect to housing discrimination. HUD will also require PHRC to keep it informed of any relevant post-*Hoy* Pennsylvania court decisions.

Dated: July 7, 2003.

Turner Russell,

Director, Enforcement Division, Office of Fair Housing and Equal Opportunity.

[FR Doc. 03–17990 Filed 7–15–03; 8:45 am]

BILLING CODE 4210–28–P

Federal Register

Wednesday,
July 16, 2003

Part IV

Department of Housing and Urban Development

Notice of Funding Availability (NOFA) for the Community Development Block Grant Program for Indian Tribes and Alaska Native Villages; Fiscal Year 2003; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4834–N–01]

Notice of Funding Availability (NOFA) for the Community Development Block Grant Program for Indian Tribes and Alaska Native Villages; Fiscal Year 2003

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of funding availability for Fiscal Year 2003.

Program Overview

Authority. Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*) and the regulations in 24 CFR part 1003.

Purpose of the Program. The purpose of the Community Development Block Grant Program for Indian Tribes and Alaska Native Villages (ICDBG) is the development of viable Indian and Alaska Native communities, including the creation of decent housing, suitable living environments, and economic opportunities primarily for persons with low- and moderate-incomes as defined in 24 CFR 1003.4.

Available Funds. The FY 2003 appropriation for the ICDBG Program is $70,538,500.

Eligible Applicants. Eligible applicants are Indian tribes or tribal organizations on behalf of Indian tribes.

Application Deadline. September 22, 2003.

Match. None.

Table of Contents

I. Application Due Date, Addresses for Submission, Tips for Application Preparation, Application Kits, Further Information, and Technical Assistance

(A) Application Due Date

Your completed application (one original and two copies) must be postmarked on or before 12 midnight, on September 22, 2003 and be received by the designated Area Office of Native American Programs (ONAP) on or within 15 days of the application due date. HUD will not accept any applications sent electronically or by facsimile.

(B) Mailing and Receipt Procedures

The following procedures apply to the delivery and receipt of applications. Please read the following instructions carefully and completely as failure to comply with these procedures may disqualify your application. HUD's delivery and receipt policies are:

- No hand deliveries will be accepted;
- Applications may be shipped using DHL, Falcon Carrier, Federal Express (FedEx), United Parcel Services (UPS), or the United States Postal Service.
- HUD strongly suggests applications submitted to HUD Field Offices be sent via the United States Postal Service, as access by other delivery services is not guaranteed;
- All mailed applications must be postmarked on or before midnight of their due date and received within fifteen (15) days of the due date.
- *Proof of Timely Submission.* In the case of a disputed submission for applications mailed by the United States Postal Service, the proof of timely submission to HUD field offices will be the Certificate of Mailing (USPS Form 3817). In the case of disputed submissions for applications submitted to HUD via DHL, Falcon Carrier, Federal Express (FedEx), or the United Parcel

Service, the documentary proof of timely submission will be the delivery service receipt indicating the application was submitted to the delivery service on or before the application due date and, through no fault of the applicant, delivery was not in time to meet the filing deadline. Receipts from other than DHL, Falcon Carrier, Federal Express (FedEx), or the United Parcel Service delivery services will not be accepted, as HUD cannot guarantee delivery due to its Security procedures.

Please remember that mail to federal facilities is screened prior to delivery, so please allow time for your package to be delivered. If an application does not meet the filing requirements it will not receive funding consideration. If you mail your application to the wrong location and the Office designated for receipt in accordance with these submission requirements does not receive it, your application will be considered late and not be considered for funding. HUD will not be responsible for directing it to the appropriate office.

(C) Addresses for Submitting Applications to the Appropriate Area ONAP

Submit the original signed application and two copies to the appropriate Area ONAP for your jurisdiction. A list identifying each Area ONAP jurisdiction is provided below.

If you are applying from this geographic location then...	Send your application to this Area ONAP:
(Persons with hearing and/or speech challenges may access the telephone numbers listed on this page via TTY (text telephone) by calling the Federal Relay Service at 1–800–877–8339 (this is a toll-free number)	
All States East of the Mississippi River, Plus Iowa and Minnesota.	Eastern/Woodlands Office of Native American Programs, Grants Management Division, 77 West Jackson Blvd., Room 2400, Chicago, IL 60604–3507, Telephone: (312) 886–4532, Ext. 2815.
Louisiana, Kansas, Oklahoma, and Texas, except West Texas.	Southern Plains Office of Native American Programs, Grants Management Division, 500 W. Main Street, Suite 400, Oklahoma City, OK 73102–3202, Telephone: (405) 553–7525.
Colorado, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming.	Northern Plains Office of Native American Programs, Grants Management Division, First Interstate Tower North, 633 17th Street, Denver, CO 80202–3607, Telephone: (303) 672–5465.
Arizona, California, and Nevada	Southwest Office of Native American Programs, Grants Management Division, One North Central Avenue, Suite 600, Phoenix, AZ 85004–2361, Telephone: (602) 379–7220.
New Mexico and West Texas	Southwest Office of Native American Programs, Grants Management Division, 625 Silver Ave., SW Suite #300, Albuquerque, NM 87102–3185, Telephone: (505) 346–6923.
Idaho, Oregon, Washington	Northwest Office of Native American Programs, Grants Management Division, Federal Office Building, 909 First Avenue, Suite 300, Seattle, WA 98104–1000, Telephone: (206) 220–5270.
Alaska	Alaska Office of Native American Programs, Grants Management Division, 949 E. 36th Avenue, Suite 401, Anchorage, AK 99508–4399, (907) 271–4603.

(D) General Tips for ICDBG Application Preparation

To expedite the review of your application and ensure that your application is given a thorough and complete review of all responses to each of the components of the selection criteria, please indicate on the first page of each project submission, the type of project(s) being proposed: Economic Development, Homeownership Assistance, Housing Rehabilitation, Land Acquisition to Support New Housing, Microenterprise Programs, New Housing Construction or Public Facilities & Improvements. This will help to ensure that the appropriate project specific thresholds and rating sub-factors will be applied.

In addition, please use separate tabs for each rating factor and rating sub-factor. In order to be rated, make sure the response is beneath the appropriate heading. Keep the responses in the same order as the NOFA. Limit your narrative explanations to 200 words or less and provide the necessary data such as a market analysis, a pro forma, housing survey data, etc., that support the response. Include all relevant material to a response under the same tab. *Only include documentation that will clearly and concisely support your response to the rating criteria.*

HUD suggests that you do a preliminary rating for your project, providing a score according to the NOFA point system. This will show you how reviewers might score your project. Also, it will show you where the strengths and weaknesses of the application are located. This will help you determine where improvements can be made to your application prior to its submission.

(E) Application Kits

For an application kit and any supplemental material please call the appropriate Area ONAP for your jurisdiction as listed above. An application kit also will be available on the Internet through the HUD Web site at *http://www.hud.gov/grants.* When requesting an application kit, please refer to ICDBG and provide your name, address (including zip code), and telephone number (including area code).

The published **Federal Register** document is the official document that HUD uses to evaluate applications. Therefore, if there is a discrepancy between any materials published by HUD in hard copy or on HUD's Web site and the **Federal Register** publication of the NOFA, the information published in the NOFA **Federal Register** publication prevails.

(F) Further Information

You should direct general program questions to the Area ONAP serving your area or to Jackie Kruszek, Denver Program Office of Native American Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 1999 Broadway, Suite 3390, Denver, CO 80202; telephone (800) 561–5913. Persons with speech or hearing impairments may call HUD's TTY number (202) 708–0770, or 1–800–877–8399 (the Federal Information Relay Service TTY). Other than the ''800'' number, these numbers are not toll-free.

(G) Technical Assistance

Before the application due date, HUD staff will be available to provide you with general guidance and technical assistance about this NOFA. However, HUD staff is not permitted to assist in preparing your application. Following selection of applicants, but before awards are made, HUD staff are available to assist in clarifying or confirming information that is a prerequisite to the offer of an award.

(H) Changes From 2002 NOFA

ICDBG Removed from Super Notice of Funding Availability (SuperNOFA). Based on requests from tribal leaders, the Department has determined that Indian tribes would best be served by the publication of the ICDBG NOFA separate from the SuperNOFA. The FY 2003 ICDBG NOFA is not part of or subject to the requirements published in HUD's SuperNOFA.

Grant Ceilings. The grant ceilings for tribes within the jurisdictions of the following Area Offices of Native American Programs (ONAP) have increased as follows: Southern Plains ONAP—$800,000; Northern Plains ONAP—$900,000, Southwest ONAP—grant ceilings for all population areas have increased as follows:

Populations	New Grant Ceiling
50,000+	$5,500,000
10,501–50,000	2,750,000
7,501–10,500	2,200,000
6,001–7,500	1,100,000
1,501–6,000	825,000
0–1,500	605,000

Housing Rehabilitation Grant Limits. The rehabilitation grant limit (per unit) for tribes within the jurisdiction of the Northern Plains ONAP has increased to $45,000.

Changes to the Application Forms. The following application forms are new or have been revised and/or consolidated.

- Standard Form for Application for Federal Assistance (SF–424) has been revised.
- Federal Assistance Funding Matrix and Certifications (HUD–424M) is no longer required. The required information and certification has been incorporated into the new HUD–424.

Requirements. The following new requirements have been added to the NOFA:

Delinquent Federal Debts, Name Check Review, Salary Limitation for Consultants, Procurement of Recovered Materials, Executive Order 13202, Executive Order 13279, Executive Order 13166, Conducting Business in Accordance with Core Values and Ethical Standards; and Pre-Award Accounting System Surveys.

Rating Factors.

- Rating Factor 1 has been revised to stress applicant performance, outcomes, program evaluation, and timeliness. Points for subfactors have been broken out.
- Rating Factor 2 has been revised to change how Need is determined for New Housing Construction, Housing Rehabilitation, Land Acquisition to Support New Housing, and Homeownership Assistance Projects.
- Rating Factor 3 has been revised to incorporate selected HUD Policy Priorities, which are worth 1 point.
- Rating Factor 3 has been revised to reinstate requirements for economic development projects for the submission of information regarding the separation of government functions and business operating decisions.
- Rating Factor 4 has been revised to incorporate language regarding conditional commitments.
- Point ranges are revised as necessary as the result of these changes.

Imminent Threat Increase. The amount of funds allocated for Imminent Threat grants for FY 2003 has increased to $4,000,000.

Other Changes. Other changes have been made to clarify NOFA requirements. Applicants are advised to carefully read the entire NOFA and not rely solely on this list of NOFA changes.

(I) Streamlining Grants

The Federal Financial Assistance Management Improvement Act of 1999 (Pub. L. 106–107) directs each federal agency to develop and implement a plan that, among other things, streamlines and simplifies the application, administrative, and reporting procedures for federal financial assistance programs administered by the agency. This law also requires the Director of the Office of Management and Budget (OMB) to direct, coordinate, and assist federal agencies in establishing (1) a common application and reporting system and (2) an interagency process for addressing ways to streamline and simplify federal financial assistance application and administrative procedures and reporting requirements for program applicants. This law also requires OMB to consult with the grantee community as it works with the federal agencies to develop and implement the course of action that would be undertaken by the federal agencies to establish an electronic site for accessing grant information and applications.

Over the last two years, HUD has used its Web site to provide information to the public about HUD's participation in Interagency efforts to streamline grant requirements and to seek your input as the federal agencies work together to achieve implementation. To find out about the work being done by the federal agencies to streamline and consolidate the grant application and reporting requirements please go to *http://www.hud.gov/offices/adm/grants/pl-106107/pl106–107.cfm.*

(J) eGrants Initiative

HUD is working with the 26 federal grant-making agencies on President George W. Bush's eGrants Initiative. This initiative is an effort by the federal agencies to develop a common electronic grant application and reporting system. This system will be ''one-stop'' shopping for funding opportunities for all federal programs. This system is being developed in response to concerns that it is difficult for organizations to know all the funding available from the federal government and how to apply for funding. It also is an effort to develop common application requirements, further streamlining the grants process, making it easier for our customers to apply for funding. The first segment of the eGrants Initiative focuses on allowing the public to easily find funding opportunities and then apply via eGrants. Funding decisions would still be under the ownership of the federal agency sponsoring the program funding opportunity. The information regarding eGrants is provided for information. No response regarding this upcoming initiative is required in your fiscal year 2003 application. To find out more about the eGrants vision and implementation schedule, please visit HUD's eGrants Web site at *http://www.hud.gov/offices/adm/grants/egrants/egrants.cfm.*

(K) Paperwork Reduction Act Statement.

The information collection requirements in this NOFA have been approved by the Office of Management and Budget (OMB) under OMB number 2577–0191 (5/31/2003) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless the collection displays a valid control number.

(L) HUD'S Strategic Goals

Implementing HUD's Strategic Framework and Demonstrating Results. HUD is committed to ensuring that programs result in the achievement of HUD's strategic mission. To support this effort, grant applications submitted for HUD programs will be rated on how well they tie proposed outcomes to HUD's policy priorities and Annual Goals and Objectives, and the quality of proposed Evaluation and Monitoring Plans. HUD's Strategic Framework establishes the following Goals and Objectives for the Department:

1. Increase Homeownership Opportunities

- Expand national homeownership opportunities.
- Increase minority homeownership.
- Make the home buying process less complicated and less expensive.
- Fight practices that permit predatory lending.
- Help HUD-assisted renters become homeowners.
- Keep existing homeowners from losing their homes.

2. Promote Decent Affordable Housing

- Expand access to affordable rental housing.
- Improve the physical quality and management accountability of public and assisted housing.
- Increase housing opportunities for the elderly and persons with disabilities.
- Help HUD-assisted renters make progress toward self-sufficiency.

3. Strengthen Communities

- Improve economic conditions in distressed communities.
- Make communities more livable.
- End chronic homelessness.
- Mitigate housing conditions that threaten health.

4. Ensure Equal Opportunity in Housing

- Resolve discrimination complaints on a timely basis.
- Promote public awareness of Fair Housing laws.
- Improve housing accessibility for persons with disabilities.

5. Embrace High Standards of Ethics, Management, and Accountability

- Rebuild HUD's human capital and further diversify its workforce.
- Improve HUD's management, internal controls and systems and resolve audit issues.
- Improve accountability, service delivery, and customer service of HUD and our partners.
- Ensure program compliance.

6. Promote Participation of Grassroots Faith-Based and Other Community-Based Organizations

- Reduce regulatory barriers to participation by grassroots faith-based and other community-based organizations.
- Conduct outreach to inform potential partners of HUD opportunities.
- Expand technical assistance resources deployed to grassroots faith-based and other community-based organizations.
- Encourage partnerships between grassroots faith-based and other community-based organizations and HUD's traditional grantees.

You can find out about HUD's Strategic Framework and Annual Performance Plans at *http://www.hud.gov/offices/cfo/reports/cforept.cfm.*

Policy Priorities. HUD encourages applicants to undertake specific activities that will assist the Department in implementing its policy priorities and which help the Department achieve its goals for FY 2004, when the majority of funding recipients will be reporting programmatic results and achievements. Applicants who include work activities that specifically address one or more of these policy priorities will receive higher rating scores than applicants who do not address these HUD priorities. Section VII, Rating Factors, will specify which priorities relate to the ICDBG Program and how many points will be awarded for addressing those priorities.

(A) Providing Increased Homeownership and Rental Opportunities for Low- and Moderate-Income Persons, Persons with Disabilities, the Elderly, Minorities, and Families with Limited English Proficiency. Too often, these individuals and families are shut out of the housing market through no fault of their own. Often developers of housing, housing counseling agencies and other organizations engaged in the housing industry must work aggressively to open up the realm of homeownership and rental opportunities to low- and moderate-income persons, persons with disabilities, the elderly, minorities, or families with limited English proficiency. Many of these families are anxious to have a home of their own but are not aware of the programs and assistance that is available. Applicants are encouraged to address the housing, housing counseling, and other related supportive services needs of these individuals and coordinate their proposed activities with funding available through HUD's affordable housing programs and home loan programs. Proposed activities support strategic goals 1, 2, and 4.

(B) Improving our Nation's Communities. HUD wants to improve the quality of life for those living in distressed communities. Applicants are encouraged to include activities which:

(1) Bring private capital into distressed communities to:

- Finance business investments to grow new businesses;
- Maintain and expand existing businesses;
- Create a pool of funds for new small and minority-owned businesses;
- Create decent jobs for low-income persons.

(2) Improve the environmental health and safety of families living in public and privately-owned housing by including activities which:

- Coordinate lead hazard reduction programs with weatherization activities funded by state and local governments, and the federal government;
- Reduce or eliminate health related hazards in the home caused by toxic agents such as molds and other allergens, carbon monoxide and other hazardous agents and conditions.

(3) Make communities more livable.

- Provide public and social services;
- Improve infrastructure and community facilities.

Activities support strategic goals 2, 3, and 4.

(C) Encouraging Accessible Design Features. As described in Section V, applicants must comply with applicable civil rights laws including the Fair Housing Act, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act. These laws, and regulations implementing them, provide for nondiscrimination based on disability and require housing and other facilities to incorporate certain features intended to provide for their use and enjoyment by persons with disabilities. HUD is encouraging applicants to add accessible design features beyond those required under civil rights laws and regulations. These features would eliminate many other barriers limiting the access of persons with disabilities to housing and other facilities. Copies of the Uniform Federal Accessibility Standards (UFAS) are available from the SuperNOFA Information Center (1–800–HUD–8929 or 1–800–HUD–2209 (TTY)) and also from the Office of Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development, Room 5230, 451 Seventh Street, SW., Washington, DC 20410; 202–755–5404 or 1–800–877–8399 (TTY Federal Information Relay Service).

Accessible design features are intended to promote visitability and incorporate features of universal design as described below:

(1) Visitability in New Construction and Substantial Rehabilitation. Applicants are encouraged to incorporate visitability standards where feasible in new construction and substantial rehabilitation projects. Visitability standards allow a person with mobility impairments access into the home, but do not require that all features be made accessible. Visitability means that there is at least one entrance at grade (no steps), approached by an

accessible route such as a sidewalk; and that the entrance door and all interior passage doors are at least 2 feet 10 inches wide, allowing 32 inches of clear passage space. A visitable home also serves persons without disabilities, such as a mother pushing a stroller or a person delivering a large appliance. More information about Visitability is available at *http://concretechange.home.mindspring.com/index.htm.*

Activities support strategic goals 2, 3, and 4.

(2) Universal Design. Applicants are encouraged to incorporate universal design in the construction or rehabilitation of housing, retail establishments, and community facilities funded with HUD assistance. Universal design is the design of products and environments to be usable by all people to the greatest extent possible, without the need for adaptation or specialized design. The intent of universal design is to simplify life for everyone by making products, communications, and the built environment more usable by as many people as possible at little or no extra cost. Universal design benefits people of all ages and abilities. In addition to any applicable required accessibility features under Section 504 of the Rehabilitation Act of 1973 or the design and construction requirements of the Fair Housing Act, the Department encourages applicants to incorporate the principles of universal design when developing housing, community facilities, and electronic communication mechanisms, or when communicating with community residents at public meetings or events. HUD believes that by creating housing that is accessible to all, it can increase the supply of affordable housing for all, regardless of ability or age. Likewise, creating places where people work, train, and interact which are useable and open to all residents increases opportunities for economic and personal self-sufficiency. More information on Universal Design is available from the Center for Universal Design, at *http://www.ncsu.edu/www/ncsu/design/sod5/cud/* or the Resource Center on Accessible Housing and Universal Design, at *http://www.abledata.com/Site_2/accessib.htm.*

Activities support strategic goals 1, 2, 3, and 4.

(D) Providing Full and Equal Access to Grassroots Faith-Based and Other Community-Based Organizations in HUD Program Implementation.

(1) HUD encourages nonprofit organizations, including grassroots faith-based and other community-based organizations, to participate in the vast array of programs for which funding is available through this NOFA and the SuperNOFA. HUD also encourages states, units of local government, universities and colleges and other organizations to partner with grassroots organizations, *e.g.*, civic organizations, faith-communities, and grassroots faith-based and other community-based organizations that have not been effectively utilized. These grassroots organizations have a strong history of providing vital community services such as assisting the homeless and preventing homelessness, counseling individuals and families on fair housing rights, providing elderly housing opportunities, developing first time homeownership programs, increasing homeownership and rental housing opportunities in neighborhoods of choice, developing affordable and accessible housing in neighborhoods across the country, creating economic development programs, and supporting the residents of public housing facilities. HUD wants to make its programs more effective, efficient, and accessible by expanding opportunities for grassroots organizations to participate in developing solutions for their own neighborhoods. Additionally, HUD encourages applicants to include these grassroots faith-based and other community-based organizations in their workplans. Applicants, their partners, and participants must review the ICDBG NOFA or Program Section of the SuperNOFA to determine whether they are eligible to apply for funding directly or whether they must establish a working relationship with an eligible applicant in order to participate in a HUD funding opportunity. Grassroots faith-based and other community-based organizations, and applicants who currently or propose to partner, fund, subgrant or subcontract with grassroots organizations (including grassroots faith-based or other community-based non-profits eligible under applicable program regulations) in conducting their work programs will receive higher rating points as specified in the NOFA.

(2) Definition of Grassroots Organizations.

(a) HUD will consider an organization a ''grassroots organization'' if the organization is headquartered in the local community to which it provides services; and,

(i) Has a social services budget of $300,000 or less, or

(ii) Has six or fewer full-time equivalent employees.

(b) Local affiliates of national organizations are not considered ''grassroots.'' Local affiliates of national organizations are encouraged, however, to partner with grassroots organizations but must demonstrate that they are currently working with a grassroots organization (*e.g.*, having a faith-community or civic organization, or other charitable organization provide volunteers).

(c) The cap provided in paragraph (2)(a)(i) above includes only that portion of an organization's budget allocated to providing social services. It does not include other portions of the budget such as salaries and expenses not directly expended in the provision of social services.

Activities support strategic goal 6.

(E) Colonias. The Department of Housing and Urban Development is seeking to improve housing conditions for families living in Colonias. Colonias means any identifiable, rural community that:

- Is located in Arizona, California, New Mexico, or Texas;
- Is within 150 miles of the border between the United States and Mexico; and
- Is determined to be a colonia on the basis of objective need criteria, including lack of potable water supply, lack of adequate sewage systems, and lack of decent, safe, sanitary, and accessible housing.

Applicants proposing to create affordable housing and provide services to the Colonias will receive higher rating points.

Activities support strategic goals 1, 2, 3, and 4.

(F) Participation of Minority Serving Institutions in HUD Programs. Pursuant to Executive Orders 13256 President's Board of Advisors on Historically Black Colleges and Universities, 13230 President's Advisory Commission on Educational Excellence for Hispanic Americans, 13216 Increasing Participation of Asian Americans and Pacific Islanders in Federal Programs, and 13270 Tribal Colleges and Universities, HUD is strongly committed to broadening the participation of Minority Serving Institutions (MSIs) in its programs. HUD is interested in increasing the participation of MSIs in order to advance the development of human potential, strengthen the Nation's capacity to provide high quality education, and increase opportunities for MSIs to participate and benefit from federal financial assistance programs. HUD encourages all applicants and recipients to include meaningful participation of MSIs in their work programs. A listing of MSIs can be found on the Department of Education Web site at *http://www.ed.gov/offices/OCR/*

minorityinst.html or HUD's Web site at *http://www.hud.gov.*

Activities support strategic goals 3 and 4.

(G) Participation in Energy Star. The Department of Housing and Urban Development has adopted a wide-ranging energy action plan for improving energy efficiency in all program areas. As a first step in implementing the energy plan, HUD, the Environmental Protection Agency and the Department of Energy have signed a joint partnership to promote energy efficiency in HUD's affordable housing efforts and programs. The purpose of the Energy Star partnership is to promote energy efficiency of the affordable housing stock, but also to help protect the environment. Applicants constructing, rehabilitating or maintaining housing or community facilities are encouraged to promote energy efficiency in design and operations. They are urged especially to purchase and use Energy Star labeled products. Applicants providing housing assistance or counseling services are encouraged to promote Energy Star building by homebuyers and renters. Program activities can include developing Energy Star promotional and information materials, outreach to low- and moderate-income renters and buyers on the benefits and savings when using Energy Star products and appliances, and promoting the designation of community buildings and homes as Energy Star compliant. For further information about Energy Star *see http://www.energystar.gov* or call 1–888–STAR–YES (1–888–782–7937) or for the hearing-impaired, 1–888–588–9920 TTY.

Activities support strategic goals 1 and 2.

(H) Ending Chronic Homelessness within Ten Years. President Bush has set a national goal to end chronic homelessness within ten years. Secretary Mel Martinez has embraced this goal and has pledged that HUD's grant programs will be used to support the President's goal and more adequately meet the needs of chronically homeless individuals. A person experiencing chronic homelessness is defined as an unaccompanied individual with a disabling condition who has been continuously homeless for a year or more or has experienced four or more episodes of homelessness over the last three years. Applicants are encouraged to target assistance to chronically homeless persons by undertaking activities that will result in:

- Creation of affordable group homes or rental housing units;
- Establishing a set-aside of units of affordable housing for chronically homeless;
- Substance abuse treatment programs targeted to homeless population;
- Job training programs which will provide opportunities for economic self-sufficiency;
- Counseling programs that assist homeless persons in finding housing, financial management, anger management and building interpersonal relationships;
- Supportive services, such as health care assistance that will permit homeless individuals to become productive members of society;
- Provision of Service Coordinators or One Stop Assistance Centers that will ensure that chronically homeless persons have access to a variety of social services Activities support Strategic Goals 2 and 3.

(M) Catalog of Federal Domestic Assistance Number

The Catalog of Federal Assistance (CFDA) Number for ICDBG 14.862. The CFDA is a governmentwide compendium of Federal programs, projects, services, and activities that provide assistance or benefits to the public.

II. Amount Allocated

(A) Available Funds

The FY 2003 appropriation for the ICDBG Program is $70,538,850.

(B) General

Title I of the Housing and Community Development Act of 1974, which authorizes Community Development Block Grants, requires that grants for Indian tribes be awarded on a competitive basis in accordance with selection criteria contained in a regulation promulgated by the Secretary after notice and public comment. All grant funds awarded in accordance with this NOFA are subject to the requirements of 24 CFR part 1003. Applicants within an Area ONAP's geographic jurisdiction compete only against each other for that Area ONAP's allocation of funds.

(C) Allocations to Area ONAPs

The requirements for allocating funds to Area ONAPs responsible for program administration are found at 24 CFR 1003.101. Following these requirements, based on an appropriation of $70,538,500 less $4,000,000 retained to fund Imminent Threat Grants, the allocations for FY 2003 are as follows:

Eastern/Woodland	$7,736,723
Southern Plains	14,743,223
Northern Plains	9,750,568
Southwest	25,698,706
Northwest	3,392,614
Alaska	7,216,666
Total	$68,538,500

(D) Imminent Threat Grants

The criteria for grants to alleviate or remove imminent threats to health or safety that require an immediate solution are described at 24 CFR part 1003, subpart E. In order to satisfy these criteria, the problem to be addressed must be such that an emergency situation exists or would exist if the problem were not addressed. In addition, you may use funds only to address imminent threats that are not of a recurring nature and that represent a unique and unusual circumstance that impacts an entire service area. In accordance with the provisions of 24 CFR part 1003, subpart E, we will retain $4,000,000 to meet the funding needs of imminent threat applications submitted to any of the Area ONAPs. The grant ceiling for imminent threat applications for FY 2003 is $350,000. This ceiling has been established pursuant to the provisions of 24 CFR 1003.400(c).

You do not have to submit a request for assistance under the imminent threat set-aside (24 CFR part 1003, subpart E) by the deadline established in this NOFA. The deadline applies only to applications submitted for assistance under 24 CFR part 1003, subpart D, single purpose grants.

If, in response to a request for assistance, an Area ONAP issues you a letter to proceed under the authority of 24 CFR 1003.401(a), then your application must be submitted to and approved by the Area ONAP before a grant agreement may be executed. This application must contain: HUD Form 424, Application for Federal Assistance; a brief description of the proposed project; Form HUD–4123, Cost Summary; Form HUD–4125, Implementation Schedule; Form HUD–2880, Applicant/Recipient Disclosure/Update Report; and, Form HUD–50070, Certification for a Drug-Free Workplace.

III. Program Description; Eligible Applicants, Eligible Activities; and Definitions

(A) Program Description

The purpose of the ICDBG Program is the development of viable Indian and Alaska Native communities, including the creation of decent housing, suitable living environments, and economic opportunities primarily for persons with low- and moderate-incomes.

(B) Eligible Applicants

To apply for funding you must be eligible as an Indian Tribe (or as a tribal organization), as required by 24 CFR 1003.5, by the application submission date.

Tribal organizations are permitted to submit applications under 24 CFR 1003.5(b) on behalf of eligible tribes when one or more eligible tribe(s) authorize the organization to do so under concurring resolutions. As is stated in this regulatory section, the tribal organization must itself be eligible under Title I of the Indian Self-Determination and Education Assistance Act. The Bureau of Indian Affairs or the Indian Health Service, as appropriate, must make a determination of such eligibility. This determination must be provided to the Area ONAP by the application submission date.

If a tribe or tribal organization claims that it is a successor to an eligible entity, the Area ONAP must review the documentation to determine whether it is in fact the successor entity.

Due to the unique structure of tribal entities eligible to submit ICDBG applications in Alaska, and as only one ICDBG application may be submitted for each area within the jurisdiction of an entity eligible under 24 CFR 1003.5, a tribal organization that submits an application for activities in the jurisdiction of one or more eligible tribes or villages must include a concurring resolution from each such tribe or village authorizing the submittal of the application. Each such resolution must also indicate that the tribe or village does not itself intend to submit an ICDBG application for that funding round. The hierarchy for funding priority continues to be the IRA Council, the Traditional Village Council, the ANCSA Village Corporation, and the ANCSA Regional Corporation.

On July 12, 2002 (67 FR 46328), the Bureau of Indian Affairs published a **Federal Register** notice entitled ''Indian Entities Recognized and Eligible To Receive Services From the United States Bureau of Indian Affairs.'' This notice provides a listing of Indian Tribal Entities in Alaska found to be Indian Tribes as the term is defined and used in 25 CFR part 83. Additionally, pursuant to title I of the Indian Self-Determination and Education Assistance Act, ANCSA Village Corporations and Regional Corporations are also considered tribes and therefore eligible applicants for the ICDBG program.

Any questions regarding eligibility determinations and related documentation requirements for entities in Alaska should be referred to the Alaska Area ONAP prior to the application submission date. (*See* 24 CFR 1003.5 for a complete description of eligible applicants.)

(C) Eligible Activities

Activities that are eligible for ICDBG funding are identified at 24 CFR part 1003, subpart C. Please note that although this subpart has not yet been revised to include the restrictions on activity eligibility that were added to section 105 of the CDBG statute by section 588 of the Quality Housing and Work Responsibility Act of 1998, these restrictions apply. Specifically, ICDBG funds may not be used to assist directly in the relocation of any industrial or commercial plant, facility, or operation, from one area to another, if the relocation is likely to result in a significant loss of employment in the labor market area from which the relocation occurs. The rating factors included under Section VII specify many of the activities listed as eligible under part 1003, subpart C. Those listed include new housing construction (in certain circumstances as described in Section VII, housing rehabilitation, land acquisition to support new housing, homeownership assistance, public facilities and improvements, economic development, and microenterprise programs. However, the following eligible activities not clearly identified by the rating factors may be proposed and rated as described below. During the past few years, many tribes have experienced high incidences of mold growth in tribal homes and buildings. Renovation of affected buildings is eligible under housing rehabilitation or public facility improvement projects.

For a complete description of eligible activities, please refer to 24 CFR part 1003, subpart C.

(1) *Acquisition of Property.* This activity can be proposed as Land to Support New Housing or as part of New Housing Construction, Public Facilities and Improvements or Economic Development depending on the purpose of the land acquisition to support new construction.

(2) *Assistance to Institutions of Higher Learning.* If such entities have the capacity, they can help the ICDBG grantees to implement eligible projects.

(3) *Assistance to Community Based Development Organizations (CBDOs).* Grantees may provide assistance to these organizations to undertake activities related to neighborhood revitalization, community economic development or energy conservation.

(4) *Clearance, Demolition.* These activities can be proposed as part of Housing Rehabilitation, New Housing Construction, Public Facilities and Improvements or Land to Support New Housing.

(5) *Code Enforcement.* This activity can be proposed as Housing Rehabilitation. The activity must comply with the requirements at 24 CFR 1003.202. § 1003.201 (d) states ''Demolition of HUD-assisted housing units may be undertaken only with the prior approval of HUD.''

(6) *Comprehensive Planning.* This activity is eligible, and can be proposed, as part of any otherwise eligible project to the extent allowed by the 20 percent cap on the grant for planning/administration.

(7) *Energy Efficiency.* Associated activities can be proposed under Housing Rehabilitation or Public Facilities and Improvements depending upon the type of energy efficiency activity.

(8) *Lead Based Paint Abatement and Evaluation.* These activities can be proposed under Housing Rehabilitation.

(9) *Non-Federal Share.* ICDBG funds can be used as a match for any non-ICDBG funding to the extent allowed by such funding and the activity is eligible under 24 CFR part 1003, Subpart C.

(10) *Privately and Publicly Owned Commercial or Industrial Buildings (real property improvements).* These activities can be proposed under Economic Development. Privately owned commercial rehabilitation is subject to the requirements at 24 CFR 1003.202.

(11) *Privately Owned Utilities.* Assistance to privately owned utilities can be proposed under Public Facilities and Improvements.

(12) *Removal of Architectural Barriers.* This includes removing barriers that restrict mobility and access for elderly and persons with disabilities. This activity can be proposed under Housing Rehabilitation or Public Facilities and Improvements depending upon the type of structure where the barrier will be removed.

D. Definitions.

(1) *Adopt.* To approve by formal tribal resolution.

(2) *Assure.* To comply with a specific NOFA requirement. As an applicant, you must state your compliance or your intent to comply in your application.

(3) *Document.* To supply supporting written information and/or data in the application that satisfies the NOFA requirement. Documentation should clearly and concisely support your response to the rating factor.

(4) *Entity Other than Tribe.* A distinction is made between the requirements for point award under Rating Factor 3 if a tribe or an entity other than the tribe will assume maintenance and related responsibilities for projects other than economic development and land acquisition to support new housing. Entities other than the tribe must have the following characteristics: must be legally distinct from the tribal government; their assets and liabilities cannot be considered to be assets and liabilities of the tribal government; claims against such entities cannot be made against the tribal government; and, must have governing boards, boards of directors, or groups or individuals similar in function and responsibility to such boards which are separate from the tribe's general council, tribal council, or business council, as applicable.

(5) *Homeownership Assistance Programs.* Tribes may apply for assistance to provide direct homeownership assistance to low- and moderate-income households to: subsidize interest rates and mortgage principal amounts for low- and moderate-income homebuyers; finance the acquisition by low- and moderate-income homebuyers of housing that is occupied by the homebuyers; acquire guarantees for mortgage financing obtained by low- and moderate-income homebuyers from private lenders (except that ICDBG funds may not be used to guarantee such mortgage financing directly, and grantees may not provide such guarantees directly); provide up to 50 percent of any down payment required from a low- and moderate-income homebuyer; or, pay reasonable closing costs (normally associated with the purchase of a home) incurred by a low- or moderate-income homebuyer.

(6) *Leveraged Resources.* Leveraged resources are resources that you will use in conjunction with ICDBG funds to achieve the objectives of the project. Leveraged resources include, but are not limited to: tribal trust funds; loans from individuals or organizations; state or federal loans or guarantees; other grants; and non-cash contributions and donated services. (See Rating Factor 4 of this NOFA for documentation requirements for point award for leveraged resources.)

(7) *Microenterprise Programs.* Tribes may apply for assistance to operate programs to fund the development, expansion and stabilization of microenterprises. Microenterprises are defined as commercial entities with five or fewer employees, including the owner. Microenterprise program activities may entail the following assistance to eligible businesses: providing credit, including, but not limited to, grants, loans, loan guarantees, and other forms of financial support for the establishment, stabilization, and expansion of microenterprises; providing technical assistance, advice, and business support services to owners of microenterprises and persons developing microenterprises; and providing general support, including, but not limited to, peer support programs, counseling, child care, transportation, and other similar services to owners of microenterprises and persons developing microenterprises.

(8) *Operations and Maintenance (O&M) for Public Facilities and Improvements.* While various items of cost will vary in importance and significance depending on the type of facility proposed, there are items of expense related to the operation of the physical plant which must be addressed in a O&M plan (tribe assumes responsibility) or in a letter of commitment (entity other than tribe will assume these responsibilities). These items include daily or other periodic maintenance activities; repairs such as replacing broken windows; capital improvements or replacement reserves for repairs such as replacing the roof; fire and liability insurance (may not be applicable to most types of infrastructure projects such as water and sewer lines); and, security (may not be applicable to many types of infrastructure projects such as roads).

Please note that while it is possible that the service provider may, in its agreement with a tribe, commit itself to cover certain or all facility O&M costs, as defined, these O&M costs do not include the program service provision costs related to the delivery of services (social, health, recreational, educational or other) which may be provided in a facility.

(9) *Project Cost.* The total cost to implement the project. Project cost includes both ICDBG and non-ICDBG funds and resources.

(10) *Standard Housing/Standard Condition.* Housing that meets the housing quality standards (HQS) adopted by the applicant. The HQS adopted by the applicant must be at least as stringent as the Section 8 HQS contained in 24 CFR 982.401 (Section 8 Tenant-Based Assistance: Housing Choice Voucher Program) unless the ONAPs approve less stringent standards based on a determination that local conditions make the use of Section 8 HQS infeasible. You may submit, before the application due date, a request for the approval of standards less stringent than Section 8 HQS. If you submit the request with your application, you should not assume automatic approval by the ONAPs. The adopted standards must provide for a safe house, in physically sound condition with all systems performing their intended design functions; a livable home environment and an energy efficient building and systems that incorporate energy conservation measures; and, an adequate space and privacy for all intended household members.

(11) *Tribe.* Please note: when used in this NOFA the word ''tribe'' means an Indian tribe, band, group or nation, including Alaska Indians, Aleuts, Eskimos, Alaska Native Villages, ANCSA Village Corporations, and ANCSA Regional Corporations.

IV. Requirements

Applicants must comply with the following requirements:

(A) Requirements Applicable to All Projects

(1) *Accessible Technology.*

The Rehabilitation Act Amendments of 1998 apply to all electronic information technology (EIT) used by a grantee for transmitting, receiving, using, or storing information to carry out the responsibilities of any federal grant awarded. The Act's coverage includes, but is not limited to, computers (hardware, software, word-processing, e-mail, and web pages), facsimile machines, copiers and telephones. When developing, procuring, maintaining, or using EIT, funding recipients must ensure that the EIT allows employees with disabilities and members of the public with disabilities to have access to and use of information and data that is comparable to the access and use of information and data by employees and members of the public who do not have disabilities. If these standards impose a hardship on a funding recipient, they may provide an alternative means to allow the individual to use the information and data. However, no grantee will be required to provide information services to a person with disabilities at any location other than the location at which the information services is generally provided.

(2) Ensuring the Participation of Small Businesses, Small Disadvantaged Businesses, and Women-Owned Businesses.

HUD is committed to ensuring that small businesses, small disadvantaged businesses, and women-owned businesses participate fully in HUD's direct contracting and in contracting opportunities generated by HUD grant

funds. Too often, these businesses still experience difficulty accessing information and successfully bidding on federal contracts. State, local, and tribal governments are required by 24 CFR 85.36(e) and non-profit recipients of assistance (grantees and sub-grantees) by 24 CFR 84.44(b), to take all necessary affirmative steps in contracting for purchase of goods or services to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.

(3) Delinquent Federal Debts. Consistent with the purpose and intent of 31 U.S.C. 3720B and 28 U.S.C. 3201(e), no award of federal funds shall be made to an applicant who has an outstanding delinquent federal debt until: (a) The delinquent account is paid in full; (b) a negotiated repayment schedule is established and at least one payment is received; or (c) other arrangements satisfactory to the Department of Housing and Urban Development are made prior to the deadline submission date.

(4) Name Check Review. Applicants are subject to a name check review process. Name checks are intended to reveal matters that significantly reflect on the applicant's management and financial integrity, or if any key individuals have been convicted or are presently facing criminal charges. If the name check reveals significant adverse findings that reflect on the business integrity or responsibility of the recipient and/or key individual, HUD reserves the right to: (a) Require the removal of any key individual from association with management of and/or implementation of the award; and (b) make appropriate provisions or revisions with respect to the method of payment and/or financial reporting requirements.

(5) Salary Limitation for Consultants. FY 2003 funds may not be used to pay or to provide reimbursement for payment of the salary of a consultant at more than the daily equivalent of the rate paid for level IV of the Executive Schedule, unless specifically authorized by law.

(6) Procurement of Recovered Materials. State agencies and agencies of a political subdivision of a state that are using assistance under this NOFA for procurement, and any person contracting with such an agency with respect to work performed under an assisted contract, must comply with the requirements of section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. In accordance with section 6002, these agencies and persons must procure items designated in guidelines of the Environmental Protection Agency at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the quantity acquired in the preceding fiscal year exceeded $10,000; must procure solid waste management services in a manner that maximizes energy and resource recovery; and must have established an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

(7) Executive Order 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects.

Consistent with Executive Order 13202, as amended, ''Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects,'' it is a condition of receipt of assistance under this NOFA that neither you nor any subrecipient or program beneficiary receiving funds under an award granted under this NOFA, nor any construction manager acting on behalf of you or any such subrecipient or program beneficiary, may require bidders, offerors, contractors, or subcontractors to enter into or adhere to any agreement with any labor organization on any construction project funded in whole or in part by such award or on any related federally funded construction project; or prohibit bidders, offerors, contractors, or subcontractors from entering into or adhering to any such agreement on any such construction project; or otherwise discriminate against bidders, offerors, contractors, or subcontractors on any such construction project because they become or refuse to become or remain signatories or otherwise to adhere to any such agreements. Contractors and subcontractors are not prohibited from voluntarily entering into such agreements. A recipient or its construction manager may apply to HUD under section 5 (c) of the Executive Order for an exemption from these requirements for a project where a construction contract on the project had been awarded as of February 17, 2001 and was subject to requirements that are prohibited under the Executive Order.

(8) Executive Order 13279 Equal Protection of the Laws for Faith-Based and Community Organizations. HUD is committed to full implementation of 13279 and has undertaken a review of all policies and regulations that have implications for faith-based and community organizations, and has established a policy priority to provide full and equal access to grassroots faith-based and other community-based organizations in HUD program implementation. Applicants are urged to complete and return the ''Survey Ensuring Equal Opportunity for Applicants,'' included with other standard forms in Appendix A. Your participation in the survey will help HUD measure its success providing equal access to its programs for all applicants.

(9) Executive Order 13166, Improving Access to Persons With Limited English Proficiency'' (LEP). Consistent with Executive Order 13166, ''Improving Access to Persons With Limited English Proficiency (LEP) issued on August 11, 2000, all HUD recipients should take reasonable steps to provide certain materials and information available in languages other than English. The determination as to what materials, languages, and modes of translation/interpretation services should be used shall be based upon: (a) The specific needs and capabilities of the LEP populations among the award recipient's program beneficiaries and potential beneficiaries of assistance (*e.g.* tenants, community residents, counselees, trainees, *etc.*); (b) the recipient's primary and major program purposes; (c) resources of the recipient and size of the program; and (d) local housing, demographic, and community conditions and needs. Further guidance may be found at *http://www.lep.gov.*

(10) Conducting Business in Accordance With Core Values and Ethical Standards. Entities subject to 24 CFR Part 85 (most non-profit organizations and state, local and tribal governments or government agencies or instrumentalities who receive federal awards of financial assistance) are required to develop and maintain a written code of conduct (*see* section 85.36(b)(3)). Consistent with regulations governing specific programs, your code of conduct must: prohibit real and apparent conflicts of interest that may arise among officers, employees, or agents; prohibit the solicitation and acceptance of gifts or gratuities by your officers, employees and agents for their personal benefit in excess of minimal value; and, outline administrative and disciplinary actions available to remedy violations of such standards. If awarded assistance under this NOFA, you will be required, prior to entering into an agreement with HUD, to submit a copy of your code of conduct and describe

the methods you will use to ensure that all officers, employees, and agents of your organization are aware of your code of conduct. Failure to meet the requirement for a code of conduct will prohibit you from receiving an award of funds from HUD.

(11) Pre-Award Accounting System Surveys. HUD may arrange for a pre-award survey of the applicant's financial management system in cases where the recommended applicant has no prior federal support, the program area has reason to question whether the applicant's financial management system meets federal financial management standards, or the applicant is considered a high risk based upon past performance or financial management findings. HUD will not make an award to any applicant who does not have a financial management system that meets federal standards.

(12) Grant Ceilings. The authority to establish grant ceilings is found at 24 CFR 1003.100(b)(1). Grant ceilings are established for FY 2003 funding at the following levels:

Area ONAP	Population	Ceiling
Eastern/Woodlands	ALL	$500,000
Southern Plains	ALL	800,000
Northern Plains	ALL	900,000
Southwest	50,001+	5,500,000
	10,501–50,000	2,750,000
	7,501–10,500	2,200,000
	6,001–7,500	1,100,000
	1,501–6,000	825,000
	0–1,500	605,000
Northwest	ALL	500,000
Alaska	ALL	500,000

For the Southwest Area ONAP jurisdiction, the population used to determine ceiling amounts is the Native American population that resides on a reservation or rancheria. Please contact that office before submitting your application if you are unsure of the population level to use to determine the ceiling amount for your tribe or if you believe that the level used for previous years needs to be revised or corrected. The Southwest ONAP must approve any corrections or revisions to Native American population data before you submit your application.

(13) Environmental Requirements. As required by 24 CFR 1003.605, ICDBG grantees must perform environmental reviews of ICDBG activities in accordance with 24 CFR part 58. Grantees may not commit or expend any ICDBG or nonfederal funds on project activities (other than those listed in 24 CFR 58.34 or 58.35(b)) until HUD has approved a Request for Release of Funds and environmental certification submitted by the grantee. The expenditure or commitment of ICDBG or nonfederal funds for such activities prior to HUD approval may result in the denial of assistance for the project or activities under consideration.

(14) Indian Preference. HUD has determined that the ICDBG program is subject to section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)). The provisions and requirements for implementing this section are in 24 CFR 1003.510.

(15) Anti-discrimination Provisions. Under the authority of section 107(e)(2) of the CDBG statute, HUD waived the requirement that recipients comply with the anti-discrimination provisions in section 109 of the CDBG statute with respect to race, color, and national origin. You must comply with the other prohibitions against discrimination in section 109 (HUD's regulations for section 109 are in 24 CFR part 6) and with the Indian Civil Rights Act.

(16) Conflict of Interest. In addition to the conflict of interest requirements with respect to procurement transactions found in 24 CFR 85.36 and 84.42, as applicable, the provisions of 24 CFR 1003.606 apply to such activities as the provision of assistance by the recipient or sub-recipients to businesses, individuals, and other private entities under eligible activities that authorize such assistance.

(17) Economic Opportunities for Low- and Very Low-Income Persons (Section 3). Section 3 requirements apply to the ICDBG Program, but as stated in 24 CFR 135.3(c), the procedures and requirements of 24 CFR part 135 apply to the maximum extent consistent with, but not in derogation of, compliance with Indian Preference.

(B) Requirements Applicable to Specific Projects

(1) Low- and Moderate-Income Status for Rehabilitation Projects. All households that receive grant assistance under a housing rehabilitation project must be of low- and moderate-income status.

(2) Housing Rehabilitation Cost Limits. Grant funds spent on rehabilitation per house must fall within the following limits for each Area ONAP jurisdiction:

(i) Eastern/Woodlands—$35,000
(ii) Southern Plains—20,000
(iii) Northern Plains—45,000
(iv) Southwest—40,000
(v) Northwest—40,000
(vi) Alaska—55,000

(3) Commitment to Housing for Land Acquisition To Support New Housing Projects. For land acquisition to support new housing projects, your application must include evidence of a financial commitment and an ability to construct at least 25 percent of the housing units to be built on the land proposed for acquisition. This evidence must consist of one (or more) of the following: a firm or conditional commitment to construct (or to finance the construction of) the units; documentation that an approvable application for the construction of these units has been submitted to a funding source or entity; or, documentation that these units are specifically identified in the Indian Housing Plan (IHP), (one-Year Financial Resources Narrative; Table 2, Financial Resources, Part I., Line 1E; and Table 2, Financial Resources, Part II) submitted on or on behalf of the applicant as an affordable housing resource with a commensurate commitment of Indian Housing Block Grant (IHBG) (aka the Native American Housing Block Grant (NAHBG)) resources. If the IHP for the IHBG (aka NAHBG) Program year that coincides with the implementation of the ICDBG proposed project has not been submitted, you must provide an assurance that when submitted, the IHP will specifically reference the proposed project.

(4) Health Care Facilities. If you propose a facility that would provide health care services funded by the Indian Health Service (IHS), you must

assure that the facility meets all applicable IHS facility requirements. We recognize that tribes that are contracting services from the IHS may establish other facility standards. These tribes must assure that these standards at least compare to nationally accepted minimum standards.

V. Application Selection Process

You must meet all of the applicable threshold requirements of Section VI. Your application must meet all screening for acceptance requirements and all identified applicant and project specific thresholds. HUD will review each application and assign points in accordance with the selection factors described in this section. A maximum of 100 points may be awarded under Rating Factors 1 through 5. To be considered for funding, your application must receive a minimum of 15 points under rating factor 1 and an application score of 70 out of the possible total of 100.

(A) Screening for Acceptance

The Area ONAP will screen applications for single purpose grants. The Area ONAP will reject an application that fails this screening and will return the application unrated. The Area ONAP will accept your application if it meets all the criteria listed below as items (1) through (6):

(1) Your application is received or submitted in accordance with the requirements set forth under Address and Application and Submission Procedures in Section I of this NOFA;

(2) You are eligible;

(3) The proposed project is eligible;

(4) Your application contains substantially all the components specified in Section VIII of this NOFA;

(5) Your application shows that at least 70% of the grant funds are to be used for activities that benefit low- and moderate-income persons, in accordance with the requirements of 24 CFR 1003.208; and

(6) Your application is for an amount that does not exceed the grant ceilings that are established by the NOFA in Section IV.B.

(B) Threshold Review

The Area ONAP will review each application that passes the screening process to ensure that each applicant and each proposed project meets the applicant threshold requirements set forth in 24 CFR 1003.301(a) and the project specific threshold requirements set forth in 24 CFR 1003.302, and in Section VI of this NOFA.

(C) Rating

The Area ONAP will review and rate each project that meets the acceptance criteria and threshold requirements. The total points for all rating factors are 100. A maximum of 100 points may be awarded under Rating Factors 1 through 5. To be considered for funding, your application must receive a minimum of 15 points under rating factor 1 and an application score of 70 out of the possible total of 100.

(D) Public Service Projects

Because there is a statutory 15 percent cap on the amount of grant funds that may be used for public services activities, you may not receive a single purpose grant solely to fund public services activities. Your application, however, may contain a public services component for up to 15 percent of the total grant. This component may be unrelated to the other project(s) included in your application. If your application does not receive full funding, we will reduce the public services allocation proportionately so that it comprises no more than 15 percent of the total grant award. In making such reductions, the feasibility of the proposed project will be taken into consideration. If a proportionate reduction of the public services allocation renders such a project infeasible, the project will not be funded.

(E) Final Ranking

All projects will be ranked against each other according to the point totals they receive, regardless of the type of project or component under which the points were awarded. Projects will be selected for funding based on the final ranking to the extent that funds are available. The Area ONAP will determine individual grant amounts in a manner consistent with the considerations set forth in 24 CFR 1003.100(b)(2). Specifically, the Area ONAP may approve a grant amount less than the amount requested. In doing so, the Area ONAP may take into account the size of the applicant, the level of demand, the scale of the activity proposed relative to need and operational capacity, the number of persons to be served, the amount of funds required to achieve project objectives, and the reasonableness of the project costs. If the Area ONAP determines that there are not enough funds available to fund a project as proposed by the applicant, it may decline to fund that project and may fund the next highest-ranking project or projects for which adequate funds are available. The Area ONAP may select, in rank order, additional projects for funding if one of the higher-ranking projects is not funded or if additional funds become available.

(F) Tiebreakers

When rating results in a tie among projects and insufficient resources remain to fund all tied projects, the Area ONAP will approve projects that can be fully funded over those that cannot be fully funded. When that does not resolve the tie, the Area ONAP will use the following factors in the order listed to resolve the tie:

(1) The applicant that has not received an ICDBG over the longest period of time.

(2) The applicant with the fewest active ICDBGs.

(3) The project that would benefit the highest percentage of low- and moderate-income persons.

(G) Technical Deficiencies and Pre-award Requirements

Technical Deficiencies: If there are technical deficiencies in successful applications, you must satisfactorily address these deficiencies before HUD can make a grant award. After the application due date, HUD may not, consistent with its regulations in 24 CFR part 4, subpart B, consider any unsolicited information you, the applicant, may want to provide. HUD may contact you to clarify an item in your application or to correct technical deficiencies. HUD may not seek clarification of items or responses that improve the substantive quality of your response to any rating factors. In order not to unreasonably exclude applications from being rated and ranked, HUD may contact applicants to ensure proper completion of the application and will do so on a uniform basis for all applicants. Examples of curable (correctable) technical deficiencies include failure to submit the proper certifications or failure to submit an application signed by an authorized official. In each case, HUD will notify applicants by facsimile or by USPS, return receipt requested. Clarifications or corrections of technical deficiencies in accordance with the information provided by HUD must be submitted within *14 calendar days of the date of receipt of the HUD notification.* (If the due date falls on a Saturday, Sunday, or federal holiday, your correction must be received by HUD on the next day that is not a Saturday, Sunday, or federal holiday). If the technical deficiency is not corrected within this time period, HUD will reject

the application as incomplete and it will not be considered for funding.

Pre-award Requirements. Successful applicants may be required to provide supporting documentation concerning the management, maintenance, operation, or financing of proposed projects before a grant agreement can be executed. Such documentation may include additional specifications on the scope, magnitude, timing or method of implementing the project; or information to verify the commitment of other resources required to complete, operate, or maintain the proposed project. The Area ONAP will normally give you no less than thirty (30) calendar days to respond to these requirements. If you do not respond within the prescribed time period or you make an insufficient response, the Area ONAP may determine that you have not met the requirements and may withdraw the grant offer.

You may not substitute new projects for those originally proposed in your application and any new information will not affect your project's rating and ranking. The Area ONAP will award, in accordance with the provisions of this NOFA, grant amounts that had been allocated for applicants unable to meet pre-award requirements.

VI. Threshold Requirements

(A) General Threshold Requirements

(1) Outstanding ICDBG Obligation

According to 24 CFR 1003.301(a), an applicant who has an outstanding ICDBG obligation to HUD that is in arrears, or one that has not agreed to a repayment schedule will be disqualified from the competition.

(2) Compliance With Fair Housing and Civil Rights Laws

With the exception of federally recognized Indian tribes and their instrumentalities, all applicants and their subrecipients must comply with all Fair Housing and Civil Rights laws, statutes, regulations, and Executive Orders as enumerated in 24 CFR 5.105(a). If you are a federally recognized Indian tribe, you must comply with the non-discrimination provisions enumerated at 24 CFR 1003.601, as applicable.

If you, the applicant—

(i) Have been charged with a systemic violation of the Fair Housing Act alleging ongoing discrimination;

(ii) Are a defendant in a Fair Housing Act lawsuit filed by the Department of Justice alleging an on-going pattern or practice of discrimination; or,

(iii) Have received a letter of non-compliance findings under Title VI, Section 504, or Section 109, and if the charge, lawsuit, or letter of findings has not been resolved to HUD's satisfaction before the application deadline stated in this NOFA, you may not apply for assistance under this NOFA. HUD will not rate and rank your application. HUD's decision regarding whether a charge, lawsuit, or a letter of findings has been satisfactorily resolved will be based upon whether appropriate actions have been taken to address allegations of on-going discrimination in the policies or practices involved in the charge, lawsuit, or letter of findings.

a. A voluntary compliance agreement signed by all parties in response to the letter of findings;

b. A HUD-approved conciliation agreement signed by all parties;

c. A consent order or consent decree; or

d. A judicial ruling or a HUD Administrative Law Judge's decision that exonerates the respondent of any allegations of discrimination.

Project Specific Threshold Requirements

Please indicate on the first page of each project submission, the type of project(s) (Economic Development, Homeownership Assistance, Housing Rehabilitation, Land Acquisition to Support New Housing, Microenterprise Programs, New Housing Construction or Public Facilities & Improvements) that is (are) being proposed. This will help to ensure that the appropriate project specific thresholds and rating sub-factor will be applied.

In addition, for definitions of ''assure'' and ''document'', please refer to Section III d), Definitions

(1) *Housing Rehabilitation Project Thresholds.*

(a) In accordance with 24 CFR 1003.302(a), for housing rehabilitation projects, you must adopt rehabilitation standards and rehabilitation policies before you submit an application. *You must submit with the application these standards and policies, and evidence the policies/standards have been adopted in accordance with tribal law/practice.*

(b) In accordance with 24 CFR 1003.302(a), you must also provide an assurance that project funds will be used to rehabilitate HUD-assisted houses only when the tenant/homebuyer's payments are current or the tenant/homebuyer is current in a repayment agreement except in an emergency situation. The ONAP Administrator on a case-by-case basis may approve exceptions to this requirement.

(2) *Land Acquisition to Support New Housing Project Thresholds.*

No project specific thresholds.

(3) *New Housing Construction Project Thresholds.*

(a) In accordance with 24 CFR 1003.302, new housing construction can only be implemented when necessary as a last resort pursuant to 24 CFR Part 42 or through a Community Based Development Organization (CBDO). Eligible CBDOs are described in 24 CFR 1003.204(c). You must provide documentation establishing that the entity implementing your new housing construction project qualifies as a CBDO.

(b) In accordance with 24 CFR 1003.302, you must also submit with your application a current tribal resolution adopting and identifying construction standards. The construction standards may be a tribal building code or a nationally recognized model code. If it is a tribal code, it must regulate all of the areas and sub-areas identified in 24 CFR 200.925(b). If the code is recognized nationally, it must be the latest edition of one of the codes incorporated by reference in 24 CFR 200.925(c).

(c) In accordance with 24 CFR 1003.302, you must also include in your application documentation supporting the following:

(i) All households to be assisted under a new housing construction project must be of low-or moderate-income status;

(ii) No other housing is available in the immediate reservation area that is suitable for the households to be assisted;

(iii) No other funding sources including an IHBG (aka NAHBG) can meet the needs of the household(s) to be served; and

(iv) The house occupied by the household to be assisted is not in standard condition and rehabilitation is not economically feasible, or the household is currently in an overcrowded house (more than one household per house), or the household to be assisted has no current residence.

(4) *Homeownership Assistance Project Thresholds.*

No project specific thresholds.

(5) *Public Facilities and Improvements Project Thresholds.*

No project specific thresholds.

(6) *Economic Development Project Thresholds.*

In accordance with 24 CFR 1003.302, for economic development assistance projects, you must provide a financial analysis. The financial analysis must demonstrate that the project is financially feasible and the project has

a reasonable chance of success. The analysis must also demonstrate the public benefit resulting from the ICDBG assistance. The more funds you request, the greater public benefit you must demonstrate. The analysis must also establish that to the extent practicable, reasonable financial support will be committed from non-federal sources prior to disbursement of federal funds; any grant amount provided will not substantially reduce the amount of non-federal financial support for the activity; not more than a reasonable rate of return on investment is provided to the owner; and that grant funds used for the project will be disbursed on a pro-rata basis with amounts from other sources.

(7) *Microenterprise Program Thresholds.*

No project specific threshold.

VII. Rating Factors

The factors for rating and ranking applications and the points for each factor are provided below. A maximum of 100 points may be awarded under Rating Factors 1 through 5. To be considered for funding, your application must receive a minimum of 15 points under rating factor 1 and an application score of 70 out of the possible total of 100, the maximum any project can receive. The following summarizes the points assigned to each rating factor and each rating sub-factor and lists which rating sub-factors apply to which project types. Please use this table to ensure you are addressing the appropriate rating sub-factor for your project.

Rating factor	Rating sub-factor	Points	Project type
1	Total	30	Minimum of 15 Points Required.
	(1)(a)	10	All Project Types.
	(1)(b)	5 or 7*	All Project Types.
	(1)(c)	3 or 8*	All Project Types.
	(1)(d)	2 or 5*	All Project Types.
	(2)(a)	2 or 0*	All Project Types.
	(2)(b)	2 or 0*	All Project Types.
	(2)(c)	2 or 0*	All Project Types.
	(2)(d)	2 or 0*	All Project Types.
	(2)(e)	2 or 0*	All Project Types.
2	Total	20.	
	1	5	All Project Types.
	(2)(a)	15	Public Facilities and Improvements and Economic Development Projects.
	(2)(b)	15	New Housing Construction, Housing Rehabilitation, Land Acquisition to Support New Housing, and Homeownership Assistance Projects.
	(2)(c)	15	Microenterprise Programs.
3	Total	35.	
	(1)	14	All Project Types.
	(2)	5	All Project Types.
	(3)	1	By Project Type.
	(4)(a)	15	Public Facilities and Improvements.
	(4)(b)	15	New Housing Construction, Housing Rehabilitation, and Homeownership Assistance Projects.
	(4)(c)	15	Economic Development.
	(4)(d)	15	Microenterprise Programs.
	(4)(e)	15	Land Acquisition to Support New Housing
4	Total	10	All Project Types.
5	Total	5	All Project Types
Total Possible		100	Minimum of 70 Points Required.

*The first number listed indicates the maximum number of points available to current ICDBG grantees under this sub-factor. The second number indicates the maximum number of points available to new applicants.

Rating Factor 1: Capacity of the Applicant (30 Points)

This factor addresses the extent to which you have the organizational resources necessary to successfully implement the proposed activities in accordance with your implementation schedule. If applicable, past performance in administering previous ICDBG grants will be taken into consideration. Please specifically address the existence or availability of these resources for the *specific type of activity* for which you are applying. You must receive a minimum of 15 points under this factor for your proposed activity to be eligible for funding. HUD will not rate any projects further that do not receive a minimum of 15 points under this factor. Please note: If your application is funded, you will be required to submit an annual status and evaluation report which will describe the status of completed activities and any remaining work to be done. The implementation schedule you submit for this factor will also be measured against actual progress if you are funded.

(1) (*20 points for current ICDBG grantees*) (*30 points for new applicants*) *Managerial, Technical, and Administrative Capability.*

Your application must include documentation demonstrating that you possess or can obtain managerial, technical, and/or administrative capability necessary to carry out the proposed project. Your application must address who will administer the project and how you plan to handle the technical aspects of executing the project in accordance with your implementation schedule.

(a) (*10 points*) *Managerial and Technical Staff.*

The extent to which your application describes the roles/responsibilities and the knowledge/experience of your overall proposed project director and staff, including the day-to-day program manager, consultants and contractors in planning, managing and implementing projects in accordance with the implementation schedule for which funding is being requested. Experience will be judged in terms of recent, relevant and successful experience of your staff to undertake eligible program activities. In rating this factor, HUD will consider experience within the last 5 years to be recent; experience pertaining to the specific activities being proposed to be relevant; and experience

producing specific accomplishments to be successful. The more recent the experience and the more experience your own staff members who work on the project have in successfully conducting and completing similar activities, the greater the number of points you will receive for this rating factor.

(10 Points) The applicant has adequately described the roles/responsibilities and the knowledge/experience of its overall project director and staff, including the day-to-day program manager, consultants and contractors in planning, managing and implementing projects for which funding is being requested. Staff experience as described in the application is recent (within 5 years), relevant (pertains to the specific activities being proposed) and successful (has produced specific accomplishments).

(5 Points) The applicant has adequately described the roles/responsibilities and the knowledge/experience of its overall project director and staff, including the day-to-day program manager, consultants and contractors in planning, managing and implementing projects for which funding is being requested. However, one of the following applies: staff experience as described in the application is not recent (not within 5 years), is not relevant (does not pertain to the specific activities being proposed), or is not successful (did not produce specific accomplishments).

(0 Points) The applicant has not adequately described the roles/responsibilities and the knowledge/experience of its overall project director and staff, including the day-to-day program manager, consultants and contractors in planning, managing and implementing projects for which funding is being requested or more than one of the following applies: staff experience as described in the application is not recent (not within 5 years), is not relevant (does not pertain to the specific activity being proposed), or is not successful (did not produce specific accomplishments).

(b) (*5 points for current ICDBG grantees*) (*7 points for new applicants*) *Project Implementation Plan and Program Evaluation.*

The extent to which your project implementation plan identifies the specific tasks and timelines that you and your partner contractors and/or sub grantees will undertake to complete your proposed project on time and within budget. The Project Implementation Schedule, HUD Form 4125, may serve, as this required schedule provided that it is sufficiently detailed to demonstrate that you have clearly thought out your project implementation. The extent, to which your project identifies, measures and evaluates the specific benchmarks, outcomes and/or goals of your project. The Logic Model, HUD Form 96010, may serve as the format to address this information.

(5 points for current ICDBG grantees) (7 points for new applicants) The applicant submitted a project implementation plan that clearly specifies project tasks and timelines. The documentation identifies the steps in place to make adjustments to the work plan if tasks are not completed within established timeframes. The applicant submitted clear project benchmarks, outcomes and/or goals and identified objectively quantifiable program measures and/or evaluation process.

(3 points for current ICDBG grantees) (4 points for new applicants) The applicant submitted a project implementation plan that specifies project tasks and timelines. The applicant submitted project benchmarks, outcomes and/or goals, however, did not clearly identify objectively quantifiable program measures and/or the evaluation process.

(0 points for current ICDBG grantees or new applicants) The applicant submitted a project implementation schedule that does not address all project tasks and timelines associated with the project. Project benchmarks, outcomes and/or goals were not submitted, or if submitted, did not address either the quantifiable program measures and/or the evaluation process.

(c) (*3 points for current ICDBG grantees*) (*8 points for new applicants*) *Financial Management.*

This subfactor evaluates the extent to which your application describes how your financial management systems will facilitate effective fiscal control over your proposed project and meet the requirements of 24 CFR part 85 and 24 CFR part 1003. You must also describe how you will apply your financial management systems to the specific project for which you are applying. The application must include a tribal resolution or other written document signed by the appropriate entity according to tribal practices that adopts your financial management and/or internal control policies and procedures. The application will also be rated on the seriousness/significance of the findings related to your financial management system identified in your most recent audit. If you are required to have an audit but do not have a recent audit, you must submit a letter from your Independent Public Accountant stating that your financial management system complies with all applicable regulatory requirements. If you are not required to have an audit, you will automatically receive points for this portion of the subfactor.

(3 points for current ICDBG grantees) (8 points for new applicants) The applicant clearly described how it will apply its financial management systems to the proposed project. A tribal resolution or other written document signed by the appropriate entity according to tribal practices adopting financial management or internal control policies and procedures was included with the application. The applicant's most recent audit does not contain any serious or significant findings related to its financial management system, or if there is no recent audit, the applicant submitted a letter from its Independent Public Accountant stating that its financial management system complies with all applicable regulatory requirements.

(2 points for current ICDBG grantees) (4 points for new applicants) The applicant's most recent audit does not contain any serious or significant findings related to its financial management system, or if there is no recent audit, the applicant submitted a letter from its Independent Public Accountant stating that its financial management system complies with all applicable regulatory requirements. The applicant did not describe how it would apply its financial management systems to the proposed project, or it did not submit a tribal resolution or other written document adopting financial management or internal control policies and procedures.

(1 point for current ICDBG grantees) (2 points for new applicants) The applicant's most recent audit does not contain any serious or significant findings related to its financial management system, or if there is no recent audit, the applicant submitted a letter from its Independent Public Accountant stating that its financial management system complies with all applicable regulatory requirements. The applicant did not describe how it would apply its financial management systems to the proposed project, and it did not submit a tribal resolution or other written document adopting financial management or internal control policies and procedures.

(0 points for current ICDBG grantees or new applicants) The applicant's most recent audit included serious or significant findings related to its financial management systems. No tribal

resolution or other written document adopting financial management or internal control policies and procedures were submitted with the application, and the applicant did not describe how it would apply its financial management systems to the proposed project.

(d) (*2 points for current ICDBG grantees*) (*5 points for new applicants*) *Procurement and Contract Management.*

This subfactor evaluates the extent to which your application describes how your procurement and contract management policies and procedures will facilitate effective procurement and contract control over your proposed project and meet the requirements of 24 CFR part 85 and 24 CFR part 1003. You must also describe how you will apply your procurement and contract management systems to the specific project for which you are applying. The application must include a tribal resolution or other written document signed by the appropriate entity according to tribal practices that adopts your procurement and contract management policies and procedures. The application will also be rated on the seriousness of the findings related to procurement and contract management identified in your most recent financial audit. If you are required to have an audit but do not have a recent audit, you must submit a letter from your Independent Public Accountant stating that your procurement and contract management system complies with all applicable regulatory requirements. If you are not required to have an audit, you will automatically receive points for this portion of the subfactor.

(2 points for current ICDBG grantees) (5 points for new applicants) The applicant clearly described how its procurement and contract management policies and procedures will facilitate effective procurement and contract control over the proposed project, and meet the requirements of 24 CFR part 85 and 24 CFR part 1003. A tribal resolution or other written document signed by the appropriate entity according to tribal practices adopting procurement and contract management policies and procedures were included with the application. The applicant's most recent audit does not contain any serious or significant findings related to its procurement and contract management system, or if there is no recent audit, the applicant submitted a letter from its Independent Public Accountant stating that its procurement and contract management system complies with all applicable regulatory requirements.

(1 point for current ICDBG grantees) (4 points for new applicants) The applicants most recent audit does not contain any serious or significant findings related to its procurement or contract management system, or if there is no recent audit, the applicant submitted a letter from its Independent Public Accountant stating that its procurement and contract management system complies with all applicable regulatory requirements. The applicant did not describe how it would apply its procurement and contract management systems to the proposed project, or it did not submit a tribal resolution or other written document adopting procurement and contract management policies and procedures.

(0 points for current ICDBG grantees or new applicants) The applicant's most recent audit included serious or significant findings related to its procurement and contract management systems. No tribal resolution or other written document adopting procurement or contract management policies and procedures were submitted with the application, and the applicant did not describe how it would apply its procurement and contract management systems to the proposed project.

(2) (*10 points for current ICDBG grantees*) (*0 points for new applicants*) *Past Performance.*

HUD will evaluate your experience in producing timely products and reports in any previous ICDBG programs for the following performance measures. HUD reserves the right to take into account your past performance in meeting performance and reporting goals on any previous ICDBG awards.

(a) (2 points for current ICDBG grantees) (0 points for new applicants) You have had satisfactory progress in meeting the time frames established in the HUD-approved Implementation Schedule for the ICDBG Program.

(2 points) The applicant has made satisfactory progress in meeting the timeframes established in the implementation schedule, or was behind schedule but the applicant has an approved revised implementation schedule that was submitted prior to application deadline.

(0 points) The applicant has not made satisfactory progress meeting timeframes in the most recently approved implementation schedule.

(b) (2 points for current ICDBG grantees) (0 points for new applicants)

(2 points) The applicant has submitted both the Annual Status and Evaluation Reports and Federal Cash Transaction Reports for ICDBG programs in a timely manner.

(1 point) The applicant has submitted either the Federal Cash Transaction Reports or the Annual Status and Evaluation Reports for ICDBG programs in a timely manner.

(c) (2 points for current ICDBG grantees) (0 points for new applicants) You have submitted close-out documents to HUD in a timely manner. Close-out documents are required for the ICDBG Program within 90 days of the date it is determined that the criteria for close-out at 24 CFR 1003.508 have been met.

(2 points) The applicant submitted close-out documents to HUD in accordance with the timeframe and criteria at § 1003.508.

(0 points) The applicant has not submitted close-out documents to HUD as required by § 1003.508.

(d) (2 points for current ICDBG grantees) (0 points for new applicants) You have submitted annual audits in a timely fashion in accordance with the ICDBG requirements and OMB Circular A–133 and its compliance supplements.

(2 points) The applicant has submitted annual audits in accordance with ICDBG requirements and OMB Circular A–133 and its compliance supplements. If the applicant has only one open grant and it has not been a full year from award of their grant, and they have not been required to submit an audit for other purposes, the applicant will receive 2 points.

(0 points) The applicant has not submitted annual audits in accordance with ICDBG requirements and OMB Circular A–133 and its compliance supplements.

(e) (2 points for current ICDBG grantees) (0 points for new applicants) You have resolved in a timely manner ICDBG monitoring findings and controlled audit findings or no findings in current reports.

(2 points) The applicant resolved open ICDBG monitoring findings and controlled audit findings in a timely manner. If there were no open audit or ICDBG monitoring findings (current grantees only), the applicant will receive 2 points.

(0 points) The applicant has not resolved open ICDBG monitoring findings and controlled audit findings in a timely manner.

Rating Factor 2: Need/Extent of the Problem (20 Points)

This factor addresses the extent to which there is a need for the proposed project to address a documented problem among the intended beneficiaries.

(1) (5 points) Your application includes documentation demonstrating that the proposed project meets an essential community development need by fulfilling a function that is critical to

the continued existence or orderly development of the community.

(2) (15 points) Your project benefits the neediest segment of the population. The criteria for this sub-factor varies according to the type of project for which you are applying. Please note that you may submit data that are unpublished and not generally available in order to meet the requirements of this section. However, to do so, you must submit a demographic data certification along with supporting documentation as described in Section VIII (A) and (C)(11). For documenting persons employed by the project, you do not need to submit a demographic data certification and corresponding documentation. However, you do need to submit information that describes the nature of the jobs created or retained. Such information includes but is not limited to proposed job descriptions, salaries and the number of full-time equivalent positions. If you believe jobs will be retained as a result of the ICDBG project, include information that show clearly and objectively, that jobs will be lost without the ICDBG project. Jobs that are retained only for the period of the grant will not count under this rating factor.

(a) *Public Facilities and Improvements and Economic Development Projects.*

The proposed activities benefit the neediest segment of the population, as identified below. For economic development projects, you may consider beneficiaries of the project as persons served by the project and/or persons employed by the project.

(15 points) 85 percent or more of the beneficiaries are low- or moderate-income.

(10 points) At least 75 percent but less than 85 percent of the beneficiaries are low- or moderate-income.

(5 points) At least 55 percent but less than 75 percent of the beneficiaries are low- or moderate-income.

(0 points) Less than 55 percent of the beneficiaries are low- or moderate-income.

(b) New Housing Construction, Housing Rehabilitation, Land Acquisition to Support New Housing, and Homeownership Assistance Projects. The need for the proposed project is determined by utilizing data from the tribe's 2003 IHBG formula information. The ratio is based on the dollars allocated to a tribe under the IHBG Program for Need divided by the sum of the number of AIAN households in the following categories:

Annual income less than 30% of median income;

Annual income between 30% and 50% of median income;

Annual income between 50% and 80% of median income;

Overcrowded or without kitchen or plumbing;

Housing cost burden greater than 50% of annual income;

Housing shortage (Number of low-income AIAN households less total number of NAHASDA and Formula Current Assisted Stock).

This ratio is computed for each tribe and contained in Appendix B of this NOFA.

(15 points) The dollar amount for the Indian tribe is $400—$699.

(10 points) The dollar amount for the Indian tribe is $700—$1,119.

(5 points) The dollar amount for the Indian tribe is $1,120—$1,199.

(0 points) The dollar amount for the Indian tribe is $1,200 and higher, or Appendix B of this NOFA indicates that the Indian tribe has no AIAN households experiencing income or housing problems.

(c) *Microenterprise Programs.*

The owner(s) of the microenterprise must be low- or moderate-income and the majority of the jobs created or retained will be for low- or moderate-income persons. To evaluate need, the nature of the jobs created or retained will be evaluated. The owners of the microenterprises are low- and moderate-income and:

(15 points) All employees are low- or moderate-income.

(10 points) At least 75 percent but less than 100 percent of the employees are low- or moderate-income.

(5 points) At least 50 percent but less than 75 percent of the employees are low- or moderate-income.

(0 points) Less than 50 percent of the employees are low- and moderate-income.

Rating Factor 3: Soundness of Approach (35 Points)

This factor addresses the quality and anticipated effectiveness of your proposed project in meeting the needs you have identified in Rating Factor 2 and the commitment to sustain your proposed project. The populations that were described in demographics that documented need should be the same populations that will receive the primary benefit of the proposed project.

(1) (14 points) *Description of and Rationale for Proposed Project.*

(14 points) The proposed project is a viable and cost effective approach to address the needs outlined under Rating Factor 2 of your application. The proposed project is described in detail and indicates why you believe the proposed project will be most effective in addressing the identified need. The application includes a description of the size, type and location of the project; rationale for project design; and anticipated cost savings due to innovative program design and/or construction methods. For land acquisition to support new housing projects, you must establish that there is a reasonable ratio between the number of net usable acres to be acquired and the number of low- and moderate-income households to benefit from the project.

(9 points) The proposed project is a viable and cost effective approach to address the needs outlined under Rating Factor 2 of the application. The project is described in detail and indicates why you believe the project will be most effective in addressing the identified need. The application includes a description of the size, type and location of the project as well as a strong rationale for project design. For land acquisition to support new housing projects, the applicant has established that there is a reasonable ratio between the number of net usable acres to be acquired and the number of low- and moderate-income households to benefit from this project.

(5 points) The proposed project is a viable and cost effective approach to address the needs outlined under Rating Factor 2 of the application. The project is described in detail and indicates why you believe the project will be most effective in addressing the identified need. The application includes a description of the size, type, and location of the project. For land acquisition to support new housing projects, the applicant has established that there is a reasonable ratio between the number of net usable acres to be acquired and the number of low- and moderate-income households to benefit from the project.

(0 points) One of the following applies. The proposed project is not a viable and cost effective approach to address the needs outlined under Rating Factor 2 of the application. The proposed project is not described in detail with an indication of why the applicant believes the project will be most effective in addressing the identified need. For land acquisition to support new housing projects, the applicant has not established that there is a reasonable ratio between the number of net usable acres to be acquired and the number of low- and moderate-income households to benefit from the project.

(2) (5 points) *Budget and Cost Estimates.*

The quality, thoroughness, and reasonableness of the proposed project budget are documented. Cost estimates must be broken down by line item for each proposed activity and documented. You must submit documentation listing the qualifications of the person who prepared the cost estimate.

(3) (1 point) HUD Policy Priorities Your application addresses the goals for ''Improving Our Nation's Communities'', one of HUD's 2003 Policy Priorities, as described in Section I (L) of the NOFA.

(4) (15 points) *Commitment to Sustain Activities.*

Your application demonstrates your commitment to sustain your proposed activities. The information provided is sufficient to determine that the project will proceed effectively.

The criteria for this sub-factor vary according to the type of project for which you are applying.

Public Facilities and Improvement Projects.

(15 points) A tribal resolution or firm commitment from an entity other than a tribe is included in the application that adopts the operation and maintenance plan and commits the necessary funds to provide for these responsibilities. The operation and maintenance plan is included in the application and addresses maintenance, repairs, insurance, replacement reserves and includes a cost breakdown for annual expenses. For community buildings only, the plan also identifies the source of operating funds for any recreation, social or other services to be provided. In the case where a tribe will provide the funds, a tribal resolution committing these funds for this purpose is included in the application. In the case where an entity other than the tribe will provide the funds, a letter of commitment committing these funds for this purpose is included in the application. In addition, letters of commitment from service providers are included which address both operating expenses and space needs.

(10 points) A tribal resolution or firm commitment from an entity other than a tribe is included in the application that adopts the operation and maintenance plan and commits the necessary funds to provide for these responsibilities. The operation and maintenance plan is included in the application and addresses most of the above items (maintenance, repairs, insurance, replacement reserves) but does not include a satisfactory cost breakdown for annual expenses. For community buildings only, the plan also identifies the source of operating funds for any recreation, social or other services to be provided. In the case where a tribe will provide the funds, a tribal resolution committing these funds for this purpose is included in the application. In the case where an entity other than the tribe will provide the funds, a letter of commitment committing these funds for this purpose is included in the application. In addition, letters of commitment from service providers are included which address both operating expenses and space needs. Information provided is sufficient to determine that the project will proceed effectively.

(5 points) A tribal resolution or firm commitment from an entity other than a tribe is included in the application that adopts the operation and maintenance plan and commits the necessary funds to provide for these responsibilities or the operation and maintenance plan is included in the application and addresses most of the above items (maintenance, repairs, insurance, replacement reserves) is included. For community buildings only, letters of commitment to provide services are included but they do not address operating expenses and space needs. In addition, no tribal resolution or letter of commitment is provided that commits the necessary funds for any recreation, social or other services to be provided. Information provided is sufficient to determine that the project will proceed effectively.

(0 points) None of the above criteria is met.

(b) *New Housing Construction, Housing Rehabilitation, and Homeownership Assistance Projects.*

(15 points) The ongoing maintenance responsibilities are clearly identified for the tribe and/or the participants, as applicable. Any participant maintenance responsibilities are included on a statement to be signed by the participant as a condition of receiving grant assistance and the statement to be used is included in the application. If the tribe or another entity is assuming maintenance responsibilities, then the applicant must submit either a tribal resolution or letter of commitment to that effect.

(10 points) Maintenance responsibilities are identified, but lacking in detail, and the above statement (if applicable) to be signed by the participant, or the tribal resolution or letter of commitment regarding maintenance responsibilities is submitted.

(5 points) Tribal maintenance responsibilities are identified but participant responsibilities are either not addressed or do not exist, or there is no tribal resolution or letter of commitment or statement signed by the participant.

(0 points) None of the above criteria is met.

(c) *Economic Development Projects.*

You must include information or documentation which addresses or provides all of the following in the application: a description of the organizational system and capacity of the entity that will operate the business; documents which show that formal provisions exist for separation of government functions from business operating decisions, an operating plan for the project, and the feasibility and market analysis of the proposed business activity and the financial viability of the project.

Appropriate documents to include in the application to address these items include:

(i) Articles of incorporation, by-laws, resumes of key management positions and board members for the entity who will operate the business.

(ii) Business operating plan.

(iii) Market study no more than two years old and which has been conducted by an independent entity.

(iv) Feasibility study no more than two years old which indicates how the proposed business will capture a fair share of the market, and which has been conducted by an independent entity.

(v) Detailed cost summary for the development of the project.

(vi) Five year operating or cash flow financial projections.

(vii) For the expansion of an existing business, copies of financial statements for the most recent three years (or the life of the business, if less than three years).

(15 points) All above documents applicable to the proposed project are included in your application and provide evidence that the project's chance for financial success is excellent.

(8 points) All or most of the above documents applicable to the proposed project are included and provide evidence that the project's chance for financial success is reasonable.

(0 points) Neither of the above criteria is met.

(d) *Microenterprise Programs.*

You must include the following information or documentation in the application that addresses or provides a description of how your microenterprise program will operate. Appropriate information to include in the application to address program operations includes:

(i) Program description. A description of your microenterprise program including the types of assistance offered to microenterprise applicants and the

types of entities eligible to apply for such assistance.

(ii) Processes for selecting applicants. A description of your processes for analyzing microenterprise applicants' business plans, market studies and financial feasibility. For credit programs, you must describe your process for determining the loan terms (*i.e.* interest rate, maximum loan amount, duration, loan servicing provisions) to be offered to individual microenterprise applicants.

(15 points) All of the above information or documentation applicable to the proposed project are thoroughly addressed in the application and the chances for success are excellent.

(8 points) All or most of the above information or documentation applicable to the proposed project are addressed in the application and the chances for success are reasonable.

(0 points) Neither of the above criteria is met.

(e) *Land Acquisition Projects to Support New Housing.*

Submissions must include the results of a preliminary investigation conducted by a qualified independent entity demonstrating that the proposed site has suitable soil conditions for housing and related infrastructure, available drinking water, access to utilities, vehicular access, drainage, nearby social and community services, and no known environmental problems.

(15 points) The submissions include all of the above-mentioned items and all necessary infrastructure is in place.

(8 points) The submissions demonstrate that the proposed site(s) is/are suitable for housing but that not all necessary infrastructure is in place. A detailed description of resources to be used and a detailed implementation schedule for development of all necessary infrastructure demonstrates that such infrastructure, as needed for proposed housing development, will be developed in time for such development, but no later than two years after site purchase.

(0 points) Neither of the above criteria is met.

Rating Factor 4: Leveraging Resources (10 Points)

HUD believes that ICDBG funds can be used more effectively to benefit a larger number of Native American and Alaska Native persons and communities if projects are developed that use tribal resources and resources from other entities in conjunction with ICDBG funds. To encourage this, we will award points based on the percentage of non-ICDBG resources provided relative to project costs as follows:

Non-ICDBG resources to project costs	Points
Less than 5 percent	0
At least 5 percent but less than 10 percent	2
At least 10 percent but less than 15 percent	4
At least 15 percent but less than 20 percent	6
At least 20 percent but less than 25 percent	8
25 percent or more	10

Contributions which could be considered as leveraged resources for point award include, but are not limited to: tribal trust funds; loans from individuals or organizations; state or federal loans or guarantees; other grants including IHBG (aka NAHBG) funds; donated goods and services needed for the project; land needed for the project; and, direct administrative costs. With the exception of land acquisition, funds that have been expended on the project prior to application submission will not be counted as leverage. Applicants are reminded that environmental review requirements under 24 CFR part 58 apply to the commitment or use of both ICDBG and non-ICDBG funds in a leveraged project. *See* section IV (B)(2) for information related to this requirement.

Contributions that will not be considered include, but are not limited to: indirect administrative costs as identified in OMB Circular A–87, attachment A, section F; contributions of resources to pay for anticipated operations and maintenance costs of the proposed project; and, in the cases of expansions to existing facilities, the value of the existing facility.

To be considered for point award, letters of firm or projected commitments, memoranda of understanding, or agreements to participate from any entity, including the tribe, which will be providing a contribution to the project, must accompany the application.

To demonstrate the commitment of tribal resources, the application must contain a council resolution or legal equivalent that identifies and commits the tribal resources to the project, subject to approval of the ICDBG assistance. In the case of IHBG (aka NAHBG) funds, whether the tribe or a TDHE administers them, an approved IHP must identify and commit the IHBG (aka NAHBG) resources to the project. If the tribe/TDHE intends to include the leveraged commitment in a future IHP, the application must contain a council resolution or legal equivalent that identifies and commits the IHBG (aka NAHBG) resources to the project subject to the same requirements as above.

To demonstrate the commitment of public agency, foundation, or other private party resources, a letter of commitment, memorandum of understanding, and/or agreement to participate, including any conditions to which the contribution may be subject, must be submitted with the application. All letters of commitment must include the donor organization's name, the specific resource proposed, the dollar amount of the financial or in-kind resource and method for valuation, and the purpose of that resource within the proposed project. The commitment must be signed by an official of the organization legally authorized to make commitments on behalf of the organization.

HUD recognizes that in some cases, firm commitments of non-tribal resources may not be obtainable by your tribe by the application due date. For such projected resources, your application must include a statement from the contributing entity that describes why the firm commitment cannot be made at the current time and affirms that your tribe and the proposed project meets eligibility criteria for receiving the resource. In addition, a date by which the funding decisions will be made must be included. This date cannot be more than six months from the anticipated date of grant approval notification by HUD. Should HUD not receive notification of the firm commitment within 6 months of the date of grant approval, HUD will recapture the grant funds approved and will use them in accordance with the requirement of 24 CFR 1003.102.

In addition to the above requirements, for all contributions of goods, services and land, you must demonstrate that the donated items are necessary to the actual development of the project and include comparable costs (or time estimates, if appropriate) that support the donation. Land valuation must be established using one of the following methods and the documentation must be contained in the application: a site specific appraisal no more than two years old; an appraisal of a nearby comparable site also no more than two years old; a reasonable extrapolation of land value based on current area realtor value guides; or, a reasonable extrapolation of land value based on recent sales of similar properties in the same area.

Rating Factor 5: Comprehensiveness and Coordination (5 Points)

This factor addresses the extent to which your project planning and

proposed implementation reflect a coordinated, community-based process of identifying and addressing needs including assisting beneficiaries and the program to achieve self-sufficiency/sustainability. Please note that the Logic Model, HUD Form 96010, does not apply to Rating Factor 5 under the ICDBG Program. However, applicants may use this form program evaluation requirements under Rating Factor 1 (1) (b) of this NOFA.

(1) (2 points) The application addresses the extent to which you have coordinated your activities with other organizations that are not directly participating in your proposed work activities (not project partners such as those listed under Rating Factor 4: Leveraging), but with which you share common goals and objectives and are working toward meeting these objectives in a holistic and comprehensive manner. For example, your project is consistent with and, to the extent possible, identified in the IHP (One-Year Financial Resources Narrative; Table 2, Financial Resources, Part I., Line 1E; and, Table 2, Financial Resources, Part II) submitted by you or on your behalf for the IHBG (aka NAHBG) Program. If the IHP for the IHBG (aka NAHBG) program year that coincides with the implementation of the ICDBG proposed project has not been submitted, you must provide an assurance that when submitted, the IHP will specifically reference the proposed project.

(2) (3 points) Your proposed project will accomplish measurable outcomes such as number of jobs created or obtained; education or job training opportunities provided, increased economic self-sufficiency of recipients of program beneficiaries; increased homeownership rates; and, reduction of drug-related crime or health related hazards.

VIII. Application Submission Requirements

(A) Demographic Data

You may submit data that are unpublished and not generally available in order to meet the requirements of this section. You must certify that:

(1) Generally available, published data are substantially inaccurate or incomplete;

(2) Data provided have been collected systematically and are statistically reliable;

(3) Data are, to the greatest extent feasible, independently verifiable; and

(4) Data differentiate between reservation and BIA service area populations, when applicable.

(B) Publication of Community Development Statement

You must prepare and publish or post the community development statement portion of your application according to the citizen participation requirements of 1003.604.

(C) Application Submission

Your application must contain the items listed below.

1. Standard Form for Application for Federal Assistance (HUD–424).

2. Drug-Free Workplace Certification (HUD–50070).

3. Applicant/Recipient Disclosure/Update Report (HUD–2880).

4. Certification Regarding Debarment and Suspension (HUD–2992).

5. Acknowledgement of Application Receipt (HUD–2993).

If the application has been submitted by a tribal organization as defined in 24 CFR 1003.5(b), on behalf of an Indian tribe, you must submit concurring resolutions from the Indian tribe stating that the tribal organization is applying on the tribe's behalf.

The other required items are as follows:

6. Community Development Statement that includes:

(a) Components that address the general threshold requirement and the relevant project specific thresholds and rating factors;

(b) A schedule for implementing the project (form HUD–4125, Implementation Schedule); and

(c) Cost information for each separate project, including specific activity costs, administration, planning, technical assistance, and total HUD share (form HUD–4123, Cost Summary);

7. Certifications (form HUD 4126);

8. A map showing project location, if appropriate;

9. If the proposed project will result in displacement or temporary relocation, a statement that identifies:

(a) The number of persons (families, individuals, businesses, and nonprofit organizations) occupying the property on the date of the submission of the application (or date of initial site control, if later);

(b) The number to be displaced or temporarily relocated;

(c) The estimated cost of relocation payments and other services;

(d) The source of funds for relocation; and

(e) The organization that will carry out the relocation activities;

10. If applicable, evidence of the disclosure required by 24 CFR 1003.606(e) regarding conflict of interest.

11. If applicable, the demographic data certification described in Section VIII(A) and VII, Rating Factor 2 of this NOFA. The data accompanying the certification must identify the total number of persons benefiting from the project and the total number of low- and moderate-income persons benefiting from the project. Supporting documentation must include a sample copy of a completed survey form and an explanation of the methods used to collect the data, and a listing of incomes by household.

Optional submissions are:

12. Client Comments and Suggestions (HUD–2994).

13. Logic Model, HUD–96010.

14. Surveying Ensuring Equal Opportunity for Applicants, HUD–23004.

IX. Public Access, Documentation and Disclosure

A. Section 102 of HUD Reform Act, Applicant Debriefing, Documentation and Public Access Requirements

Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545) (HUD Reform Act) and the regulations codified in 24 CFR part 4, subpart A, contain a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 14, 1992, HUD published a notice that also provides information on the implementation of Section 102 (57 FR 1942). The documentation, public access, and disclosure requirements of Section 102 apply to assistance awarded under this NOFA as follows:

(1) *Documentation, public access and disclosure requirements.* HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations (24 CFR part 15).

(2) *HUD Form 2880.* HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also reported on HUD Form 2880) will be made available along with the applicant disclosure

reports, but in no case for a period of less than three years. All reports, both applicant disclosures and updates, will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations (24 CFR part 5).

(3) *Publication of Recipients of HUD Funding.* HUD's regulations at 24 CFR part 4 provide that HUD will publish a notice in the **Federal Register** to notify the public of all decisions made by the Department to provide:

(i) Assistance subject to Section 102(a) of the HUD Reform Act; and/or

(ii) Assistance provided through grants or cooperative agreements on a discretionary (non-formula, non-demand) basis, but that is not provided on the basis of a competition.

(4) *Debriefing.* Beginning 30 days after the awards for assistance are publicly announced band for at least 120 days after awards for assistance are announced publicly, HUD will provide a debriefing to any applicant requesting one on their application. All debriefing requests must be made in writing or by email by the authorized official whose signature appears on the HUD–424 or his or her successor in office, and submitted to the Area Office you submitted your application to. Information provided during a debriefing will include, at a minimum, the final score you received for each rating factor, final evaluator comments for each rating factor, and the final assessment indicating the basis upon which assistance was provided or denied.

B. Section 103 of the HUD Reform Act

HUD's regulations implementing Section 103 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3537a), codified in 24 CFR part 4, subpart B, section 4.26(2)(c) *et seq.* and 4.28 apply to this funding competition. The regulations continue to apply until the announcement of the selection of successful applicants. HUD employees involved in the review of applications and in the making of funding decisions are limited by the regulations from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Ethics Law Division at 202–708–3815. (This is not a toll-free number.) HUD employees who have specific program questions should contact the appropriate field office counsel or Headquarters counsel for the program to which the question pertains.

X. Error and Appeals

Judgments made within the provisions of this NOFA and the program regulations (24 CFR part 1003) are not subject to claims of error. You may bring arithmetic errors in the rating and ranking of applications to the attention of the Area ONAPs within 30 days of being informed of your score. If an arithmetic error was made in the application review and rating process that, when corrected, would result in the award of sufficient points to warrant the funding of an otherwise approvable project, the Area ONAPs may fund that project in the next funding round without further competition.

Appendix A: Forms

The non-standard forms, which follow, are required for your ICDBG application.

Appendix B: Data To Determine Need for Factor 2 (for Applicants for New Housing Construction, Housing Rehabilitation, Land Acquisition To Support New Housing, and Homeownership Assistance Projects)

For Applicants submitting applications for New Housing Construction, Housing Rehabilitation, Land Acquisition to Support New Housing, and Homeownership Acquisition Projects: The need for the proposed project for Factor 2 is determined by utilizing data from the tribe's 2003 IHBG formula information. The data is contained in Appendix B. Should you disagree with this information, please consult the IHBG formula customer service center at (800) 410–8808 for the process for challenging IHBG formula data.

Dated: July 7, 2003.

Michael M. Liu,

Assistant Secretary for Public and Indian Housing.

BILLING CODE 4210–33–P

APPENDIX A

Application for Federal Assistance

U.S. Department of Housing and Urban Development

OMB Approval No.2501-0017 (exp. 03/31/2005)

1. Type of Submission
☐ Application ☐ Preapplication

2. Date Submitted	4. HUD Application Number
3. Date and Time Received by HUD	5. Existing Grant Number
	6. Applicant Identification Number

7. Applicant's Legal Name	8. Organizational Unit
9. Address (give city, county, State, and zip code) A. Address: B. City: C. County: D. State: E. Zip Code:	10. Name,title,telephone number,fax number, and e-mail of the person to be contacted on matters involving this application (including area codes) A. Name: B. Title: C. Phone: D. Fax: E. E-mail:
11. Employer Identification Number (EIN) or SSN	12. Type of Applicant (enter appropriate letter in box) ☐ A. State — I. University or College B. County — J. Indian Tribe C. Municipal — K. Tribally Designated Housing Entity (TDHE) D. Township — L. Individual E. Interstate — M. Profit Organization F. Intermunicipal — N. Non-profit G. Special District — O. Public Housing Authority H. Independent School District — P. Other (Specify)
13. Type of Application ☐ New ☐ Continuation ☐ Renewal ☐ Revision If Revision, enter appropriate letters in box(es) ☐ ☐ A. Increase Amount B. Decrease Amount C. Increase Duration D. Decrease Duration E. Other (Specify)	14. Name of Federal Agency **U.S. Department of Housing and Urban Development**
15. Catalog of Federal Domestic Assistance (CFDA) Number 14 --- Title: Component Title:	16. Descriptive Title of Applicant's Program
17. Areas affected by Program (boroughs, cities, counties, States, Indian Reservation, etc.)	

18a. Proposed Program start date	18b. Proposed Program end date	19a. Congressional Districts of Applicant	19b. Congressional Districts of Program

20. Estimated Funding: **Applicant must complete the Funding Matrix on Page 2.**

21. Is Application subject to review by State Executive Order 12372 Process?
A. Yes ☐ This preapplication/application was made available to the State Executive Order 12372 Process for review on: Date_____
B. No ☐ Program is not covered by E.O. 12372
☐ Program has not been selected by State for review.

22. Is the Applicant delinquent on any Federal debt? ☐ No
☐ Yes If "Yes," explain below or attach an explanation.

Previous versions of HUD-424 and 424-M are obsolete

form **HUD-424** (01/2003)
ref. OMB Circular A-102

Funding Matrix

The applicant must provide the funding matrix shown below, listing each program for which HUD funding is being requested, and complete the certifications.

Grant Program*	HUD Share	Applicant Match	Other HUD Funds	Other Federa Share	State Share	Local/Tribal Share	Other	Program Income	Total
Grand Totals									

* For FHIPs, show both initiative and component

Certifications

I certify, to the best of my knowledge and belief, that no Federal appropriated funds have been paid, or will be paid, by or on behalf of the applicant, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with the awarding of this Federal grant or its extension, renewal, amendment or modification. If funds other than Federal appropriated funds have or will be paid for influencing or attempting to influence the persons listed above, I shall complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying. I certify that I shall require all sub awards at all tiers (including sub-grants and contracts) to similarly certify and disclose accordingly.

Federally recognized Indian Tribes and tribally designated housing entities (TDHEs) established by Federally-recognized Indian tribes as a result of the exercise of the tribe's sovereign power are excluded from coverage of the Byrd Amendment, but State-recognized Indian tribes and TDHEs established under State law are not excluded from the statute's coverage.

This application incorporates the Assurances and Certifications (HUD-424B) attached to this application or renews and incorporates for the funding you are seeking the Assurances and Certifications currently on file with HUD. To the best of my knowledge and belief, all information in this application is true and correct and constitutes material representation of fact upon which HUD may rely in awarding the agreement.

23. Signature of Authorized Official	Name (printed)
Title	Date (mm/dd/yyyy)

Certification for a Drug-Free Workplace

U.S. Department of Housing and Urban Development

Applicant Name

Program/Activity Receiving Federal Grant Funding

Acting on behalf of the above named Applicant as its Authorized Official, I make the following certifications and agreements to the Department of Housing and Urban Development (HUD) regarding the sites listed below:

I certify that the above named Applicant will or will continue to provide a drug-free workplace by:

a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Applicant's workplace and specifying the actions that will be taken against employees for violation of such prohibition.

b. Establishing an on-going drug-free awareness program to inform employees ---

(1) The dangers of drug abuse in the workplace;

(2) The Applicant's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

c. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph a.;

d. Notifying the employee in the statement required by paragraph a. that, as a condition of employment under the grant, the employee will ---

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

e. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph d.(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federalagency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

f. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph d.(2), with respect to any employee who is so convicted ---

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs a. thru f.

2. Sites for Work Performance. The Applicant shall list (on separate pages) the site(s) for the performance of work done in connection with the HUD funding of the program/activity shown above: Place of Performance shall include the street address, city, county, State, and zip code. Identify each sheet with the Applicant name and address and the program/activity receiving grant funding.)

Check here ☐ if there are workplaces on file that are not identified on the attached sheets.

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.
Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties.
(18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official	Title
Signature X	Date

form **HUD-50070** (3/98)
ref. Handbooks 7417.1, 7475.13, 7485.1 & .3

Certification Regarding Debarment and Suspension

U.S. Department of Housing and Urban Development

Certification A: Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions

1. The prospective primary participant certifies to the best of its knowledge and belief that its principals;

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal debarment or agency;

b. Have not within a three-year period preceding this proposal, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;

c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

d. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Instructions for Certification (A)

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was place when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded**, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of these regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines this eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph (6) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.

Certification B: Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Instructions for Certification (B)

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded**, as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of these regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph (5) of these instructions, if a participant in a lower covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies including suspension and/or debarment.

Applicant	Date
Signature of Authorized Certifying Official	Title

Certifications

Indian Community Development Block Grant (ICDBG)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0191
(exp. 5/31/2003)

Public reporting burden for this collection of information is estimated to average 40 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

This collection of information requires that each eligible applicant submit information to enable HUD to select the best projects for funding during annual competitions for the ICDBG Program. The information will be used by HUD to determine whether applications meet minimum screening eligibility requirements and application submission requirements. Applicants provide general information about the project which is preliminary to the review of the applicant's response to the criteria for rating the application. The information is essential for HUD in monitoring grants to ensure that grantees are making proper use of Federal dollars. Responses to the collection are required by Section 105 of the Department of Housing and Urban Development Reform Act (P.L. 101-235) as amended by the Cranston-Gonzales National Affordable Housing Act of 1990. The information requested does not lend itself to confidentiality.

The grantee hereby certifies and assures that it will comply with the regulations, guidelines, and requirements with respect to the acceptance and use of Federal funds for this Federally-assisted program. Also, the grantee gives assurances and certifies with respect to the grant that:

A. It possesses the legal authority to apply for the grant and execute the proposed program.

B. The governing body has duly authorized the filing of the application, including all understandings and assurances contained in the application and has directed and authorized the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

C. It will comply with the HUD general administration requirements in 24 CFR Part 85.

D. It will comply with the requirements of Title II of Public Law 90-284 (25 USC 1301) (the Indian Civil Rights Act).

E. It will comply with the Indian preference provisions required in 24 CFR 1003.510.

F. It will establish written safeguards to prevent employees from using positions funded under the ICDBG programs for a purpose that is, or gives the appearance of being, motivated by private gain for themselves, their immediate family or business associates. Nothing in this certification should be construed as to limit employees from benefiting from program activities for which they would otherwise be eligible.

G. It will give HUD and the Comptroller General access and right to examine all books, records, papers, or documents related to the grant for a period of not less than three years after program completion or until resolution of any final audit findings.

H. Neither the applicant nor its principals are presently excluded from participation in any HUD programs, as required by 24 CFR part 24.

I. It will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, implementing regulations at 49 CFR part 24 and the requirements of 24 CFR 1003.602.

J. The chief executive officer or other official of the applicant approved by HUD:

1. Consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 insofar as the provisions of the Act apply to the applicant's proposed program pursuant to 24 CFR 1003.605.

2. Is authorized and consents on behalf of the applicant and him/her self to accept the jurisdiction of the Federal courts for the purpose of enforcement of his/her responsibilities as such an official.

Note: Applicants for whom HUD has approved a claim of incapacity to accept the responsibilities of the Federal government for purposes of complying with the environmental review requirements of 24 CFR part 58 pursuant to 24 CFR 1003.605 need not include the provision of paragraph J in their assurance.

K. It will comply with the requirements of Section 3 of the Housing and Urban Development Act of 1968 and the regulations in 24 CFR part 135 (Economic Opportunities for Low and Very Low Income Persons) to the maximum extent consistent with, but not in derogation of, compliance with Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 USC. 450e(b)).

L. It will comply with the requirements of the Fire Authorization Administration Act of 1992 (Pub.L. 102-522).

M. It will provide the drug-free workplace required by 24 CFR part 24, subpart F.

N. It will comply with 24 CFR, part 4, subpart A, showing full disclosure of all benefits of the project as collected by Form HUD-2880, Applicant/Recipient Disclosure Report.

O. Prior to submission of its application to HUD, the grantee has met the citizen participation requirements which includes following traditional means of member involvement, as required in 24 CFR 1003.604.

P. It will administer and enforce the labor standard requirements prescribed in 24 CFR 1003.603.

Q. The Program has been developed so that not less than 70 percent of the funds received under this grant will be used for activities that benefit low- and moderate-income persons.

Note: Applicants receiving Imminent Threat Grants need not include the provision of this paragraph in their assurance

Name (type or print)	Title
Signature	Date (mm/dd/yyyy)

Previous editions are obsolete

form **HUD-4126** (12/98)

Logic Model

U.S. Department of Housing and Urban Development
Office of Departmental Grants Management and Oversight

OMB Approval No. 2535-0114
(Exp. 9/30/2003)

Program Name: _____

Component Name: _____

Strategic Goals	Policy Priorities	Problem, Need, Situation	Service or Activity	Benchmarks: Output Goal	Benchmarks: Output Result	Outcomes: Achievement Outcome Goals	Outcomes: End Results	Measurement Reporting Tools	Evaluation Process
1		2	3	4	5	6	7	8	9
Policy		Planning		Intervention		Impact		Accountability	
				Short Term				a. b. c. d. e.	
				Intermediate Term				a. b. c. d. e.	
				Long Term				a. b. c. d. e.	

HUD's Strategic Goals

1. Increase homeownership opportunities.
2. Promote decent affordable housing.
3. Strengthen communities.
4. Ensure equal opportunity in housing.
5. Embrace high standards of ethics, management, and accountability.
6. Promote participation of grass-roots faith-based and other community-based organizations.

Policy Priorities

1. Providing Increased Homeownership and Rental Opportunities for Low- and Moderate-Income Persons, Persons with Disabilities, the Elderly, Minorities, and Families with Limited English Proficiency.
2. Improving the Quality of Life in our Nation's Communities.
3. Encouraging Accessible Design Features.
4. Providing Full and Equal Access to Grass-Roots Faith-Based and Other Community-Based Organizations in HUD Program Implementation.
5. Improving Housing Conditions in Colonias.
6. Increasing Participation of Minority Serving Institutions in HUD Programs.
7. Increasing Participation in Energy Star.
8. Ending Chronic Homelessness in Ten Years.

form **HUD-96010** (04/2003)

Logic Model Instructions U.S. Department of Housing And Urban Development Office of Departmental Grants Management and Oversight

OMB Approval No. 2535-0114 (exp. 9/30/2003)

Instructions:

Responses to rating factor five should be in this format. Your response should be in bullet format rather than narrative. Please read each NOFA carefully to ensure the performance measures requested for this factor are reflected on the logic model form.

Program Name: The HUD funding program under which you are applying. If you are applying for a component of a program please include the Program Name as well as the Component Name.

Component Name: The HUD funding program under which you are applying.

Column 1: ***HUD's Strategic Goals***: Indicate in this column **the number** of the goal(s) that your proposed service or activity is designed to achieve. HUD's strategic goals are:

1. Increase homeownership opportunities.
2. Promote decent affordable housing.
3. Strengthen communities.
4. Ensure equal opportunity in housing.
5. Embrace high standards of ethics, management, and accountability.
6. Promote participation of grass-roots faith-based and other community-based organizations.

Policy Priority: Indicate in this column **the number** of the HUD Policy Priority(ies), if any, your proposed service or activity promotes. Applicants are encouraged to undertake specific activities that will assist the Department in implementing its Policy Priorities. HUD's Policy Priorities are:

1. Providing Increased Homeownership and Rental Opportunities for Low- and Moderate-Income Persons, Persons with Disabilities, the Elderly, Minorities, and Families with Limited English Proficiency.
2. Improving the Quality of Life in our Nation's Communities.
3. Encouraging Accessible Design Features.
4. Providing Full and Equal Access to Grass-Roots Faith-Based and Other Community-Based Organizations in HUD Program Implementation.
5. Improving Housing Conditions in Colonias.
6. Increasing Participation of Minority Serving Institutions in HUD Programs.
7. Increasing Participation in Energy Star.
8. Ending Chronic Homelessness in Ten Years

Column 2: **Problem, Need, or Situation**: Provide a general statement of need that provides the rationale for the proposed service or activity.

Column 3: **Service or Activity:** Identify the activities or services that you are undertaking in your work plan, which are crucial to the success of your program. Not every activity or service yields a direct outcome.

Column 4 and Column 5: **Benchmarks:** These columns ask you to identify benchmarks that will be used in measuring the progress of your services or activities. Column 4 asks for specific interim or final products (called outputs) that you establish for your program's services or activities. Column 5 should identify the results associated with the product or output. These may be numerical measures characterizing the results of a program activity, service or intervention and are used to measure performance. These outputs should lead to targets for achievement of outcomes. Results should be represented by both the actual # and % of the goal achieved.

> Column 4: **Benchmarks/Output Goal:** Set quantifiable output goals, including timeframes. These should be products or interim products, which will allow you and HUD to monitor and assess your progress in achieving your program workplan.
>
> Column 5: **Benchmark/ Output Result:** Report actual result of your benchmarks. The actual result could be number of housing units developed or rehabilitated, jobs created, or number of persons assisted. Outputs may be short, intermediate or long-term.

Column 6 and Column 7: **Outcomes:** Column 6 and Column 7 ask you to report on your expected and actual outcomes – the ultimate impact you hope to achieve. Column 6 asks you to identify outcomes in terms of the impact on the community, people's lives, changes in economic or social status, etc. Column 7 asks for the actual result of the outcome measure listed in Column 6, which should be updated as applicable.

Column 6: **Outcomes/ Goals:** Identify the outcomes that resulted in broader impacts for individuals, families/households, and/or the community. For example, the program may seek to improve the environmental conditions in a neighborhood, increase affordable housing, increase the assets of a low-income family, or improve self-sufficiency.

Proxy Outcome(s): Often direct measurement of the intended outcome is difficult or even impossible -- to measure. In these cases, applicants/grantees should use a proxy or surrogate measure that corresponds with the desired outcome. For example, improving quality of life in a neighborhood could be measured by a proxy indicator such as increases in home prices or decreases in crime. Training programs could be measured by the participant's increased wages or reading skills. The person receiving the service must meet eligibility requirements of the program.

Column 7: **Outcomes/Actual Result:** Identify specific achievements of outcomes listed in Column 6.

Column 8: **Measurement Reporting Tools:** (a) List the tools used to track output or outcome information (e.g., survey instrument; attendance log; case report; pre-post test; waiting list; etc); (b) Identify the place where data is maintained, e.g. central database; individual case records; specialized access database, tax assessor database; local precinct; other; (c) Identify the location, e.g. on-site; subcontractor; other; (d) Indicate how often data is required to be collected, who will collect it and how often data is reported to HUD; and (e) Describe methods for retrieving data, e.g. data from case records is retrieved manually, data is maintained in an automated database. This tool will be available for HUD review and monitoring and should be used in submitting reporting information.

Column 9: **Evaluation Process:** Identify the methodology you will periodically use to assess your success in meeting your benchmark output goals and output results, outcomes associated to the achievement of the purposes of the program, as well as the impact that the work has made on the individuals assisted, the community, and the strategic goals of the Department. If you are not meeting the goals and results projected for your performance period, the evaluation process should be used as a tool to ensure that you can adjust schedules, timing, or business practices to ensure that goals are met within your performance period.

Applicant/Recipient Disclosure/Update Report

U.S. Department of Housing and Urban Development

OMB Approval No. 2510-0011 (exp. 3/31/2003)

Instructions. (See Public Reporting Statement and Privacy Act Statement and detailed instructions on page 2.)

Applicant/Recipient Information

Indicate whether this is an Initial Report ☐ **or an Update Report** ☐

1. Applicant/Recipient Name, Address, and Phone (include area code):	2. Social Security Number or Employer ID Number:
( ) -	- -
3. HUD Program Name	4. Amount of HUD Assistance Requested/Received
5. State the name and location (street address, City and State) of the project or activity:	

Part I Threshold Determinations

1. Are you applying for assistance for a specific project or activity? These terms do not include formula grants, such as public housing operating subsidy or CDBG block grants. (For further information see 24 CFR Sec. 4.3).
☐ **Yes** ☐ **No**

2. Have you received or do you expect to receive assistance within the jurisdiction of the Department (HUD), involving the project or activity in this application, in excess of $200,000 during this fiscal year (Oct. 1 - Sep. 30)? For further information, see 24 CFR Sec. 4.9
☐ **Yes** ☐ **No.**

If you answered **"No"** to either question 1 or 2, **Stop**! You do not need to complete the remainder of this form.
However, you must sign the certification at the end of the report.

Part II Other Government Assistance Provided or Requested / Expected Sources and Use of Funds.

Such assistance includes, but is not limited to, any grant, loan, subsidy, guarantee, insurance, payment, credit, or tax benefit.

Department/State/Local Agency Name and Address	Type of Assistance	Amount Requested/Provided	Expected Uses of the Funds

(**Note**: Use Additional pages if necessary.)

Part III Interested Parties. You must disclose:

1. All developers, contractors, or consultants involved in the application for the assistance or in the planning, development, or implementation of the project or activity and
2. any other person who has a financial interest in the project or activity for which the assistance is sought that exceeds $50,000 or 10 percent of the assistance (whichever is lower).

Alphabetical list of all persons with a reportable financial interest in the project or activity (For individuals, give the last name first)	Social Security No. or Employee ID No.	Type of Participation in Project/Activity	Financial interest in Project/Activity ($ and %)

(**Note**: Use Additional pages if necessary.)

Certification

Warning: If you knowingly make a false statement on this form, you may be subject to civil or criminal penalties under Section 1001 of Title 18 of the United States Code. In addition, any person who knowingly and materially violates any required disclosures of information, including intentional non-disclosure, is subject to civil money penalty not to exceed $10,000 for each violation.
I certify that this information is true and complete.

Signature:	Date: (mm/dd/yyyy)
X	

Public reporting burden for this collection of information is estimated to average 2.0 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection information unless that collection displays a valid OMB control number.

Privacy Act Statement. Except for Social Security Numbers (SSNs) and Employer Identification Numbers (EINs), the Department of Housing and Urban Development (HUD) is authorized to collect all the information required by this form under section 102 of the Department of Housing and Urban Development Reform Act of 1989, 42 U.S.C. 3531. Disclosure of SSNs and EINs is optional. The SSN or EIN is used as a unique identifier. The information you provide will enable HUD to carry out its responsibilities under Sections 102(b), (c), and (d) of the Department of Housing and Urban Development Reform Act of 1989, Pub. L. 101-235, approved December 15, 1989. These provisions will help ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. They will also help ensure that HUD assistance for a specific housing project under Section 102(d) is not more than is necessary to make the project feasible after taking account of other government assistance. HUD will make available to the public all applicant disclosure reports for five years in the case of applications for competitive assistance, and for generally three years in the case of other applications. Update reports will be made available along with the disclosure reports, but in no case for a period generally less than three years. All reports, both initial reports and update reports, will be made available in accordance with the Freedom of Information Act (5 U.S.C. §552) and HUD's implementing regulations at 24 CFR Part 15. HUD will use the information in evaluating individual assistance applications and in performing internal administrative analyses to assist in the management of specific HUD programs. The information will also be used in making the determination under Section 102(d) whether HUD assistance for a specific housing project is more than is necessary to make the project feasible after taking account of other government assistance. You must provide all the required information. Failure to provide any required information may delay the processing of your application, and may result in sanctions and penalties, including imposition of the administrative and civil money penalties specified under 24 CFR §4.38.

Note: This form only covers assistance made available by the Department. States and units of general local government that carry out responsibilities under Sections 102(b) and (c) of the Reform Act must develop their own procedures for complying with the Act.

Instructions

Overview.

A. Coverage. You must complete this report if:
   (1) You are applying for assistance from HUD for a specific project or activity **and** you have received, or expect to receive, assistance from HUD in excess of $200,000 during the during the fiscal year;
   (2) You are updating a prior report as discussed below; or
   (3) You are submitting an application for assistance to an entity other than HUD, a State or local government if the application is required by statute or regulation to be submitted to HUD for approval or for any other purpose.

B. **Update reports (filed by "Recipients" of HUD Assistance): General.** All recipients of covered assistance must submit update reports to the Department to reflect substantial changes to the initial applicant disclosure reports.

Line-by-Line Instructions.

Applicant/Recipient Information.
All applicants for HUD competitive assistance, must complete the information required in blocks 1-5 of form HUD-2880:

1. Enter the full name, address, city, State, zip code, and telephone number (including area code) of the applicant/recipient. Where the applicant/recipient is an individual, the last name, first name, and middle initial must be entered.
2. Entry of the applicant/recipient's SSN or EIN, as appropriate, is optional.
3. Applicants enter the HUD program name under which the assistance is being requested.
4. Applicants enter the amount of HUD assistance that is being requested. Recipients enter the amount of HUD assistance that has been provided and to which the update report relates. The amounts are those stated in the application or award documentation. NOTE: In the case of assistance that is provided pursuant to contract over a period of time (such as project-based assistance under section 8 of the United States Housing Act of 1937), the amount of assistance to be reported includes all amounts that are to be provided over the term of the contract, irrespective of when they are to be received.
5. Applicants enter the name and full address of the project or activity for which the HUD assistance is sought. Recipients enter the name and full address of the HUD-assisted project or activity to which the update report relates. The most appropriate government identifying number must be used (e.g., RFP No.; IFB No.; grant announcement No.; or contract, grant, or loan No.) Include prefixes.

Part I. Threshold Determinations - Applicants Only
Part I contains information to help the applicant determine whether the remainder of the form must be completed. **Recipients filing Update Reports should not complete this Part.**

If the answer to ***either*** questions 1 or 2 is No, the applicant need not complete Parts II and III of the report, but must sign the certification at the end of the form.

Part II. Other Government Assistance and Expected Sources and Uses of Funds.

A. Other Government Assistance. This Part is to be completed by both applicants and recipients for assistance and recipients filing update reports. Applicants and recipients must report any other government assistance involved in the project or activity for which assistance is sought. Applicants and recipients must report any other government assistance involved in the project or activity. Other government assistance is defined in note 4 on the last page. For purposes of this definition, other government assistance is expected to be made available if, based on an assessment of all the circumstances involved, there are reasonable grounds to anticipate that the assistance will be forthcoming.

Both applicant and recipient disclosures must include all other government assistance involved with the HUD assistance, as well as any other government assistance that was made available before the request, but that has continuing vitality at the time of the request. Examples of this latter category include tax credits that provide for a number of years of tax benefits, and grant assistance that continues to benefit the project at the time of the assistance request.

The following information must be provided:

1. Enter the name and address, city, State, and zip code of the government agency making the assistance available.
2. State the type of other government assistance (e.g., loan, grant, loan insurance).
3. Enter the dollar amount of the other government assistance that is, or is expected to be, made available with respect to the project or activities for which the HUD assistance is sought (applicants) or has been provided (recipients).
4. Uses of funds. Each reportable use of funds must clearly identify the purpose to which they are to be put. Reasonable aggregations may be used, such as "total structure" to include a number of structural costs, such as roof, elevators, exterior masonry, etc.

B. Non-Government Assistance. Note that the applicant and recipient disclosure report must specify all expected sources and uses of funds - both from HUD ***and any other source*** - that have been or are to be, made available for the project or activity. Non-government sources of funds typically include (but are not limited to) foundations and private contributors.

Part III. Interested Parties.

This Part is to be completed by both applicants and recipients filing update reports. Applicants must provide information on:

1. All developers, contractors, or consultants involved in the application for the assistance or in the planning, development, or implementation of the project or activity and
2. any other person who has a financial interest in the project or activity for which the assistance is sought that exceeds $50,000 or 10 percent of the assistance (whichever is lower).
   Note: A financial interest means any financial involvement in the project or activity, including (but not limited to) situations in which an individual or entity has an equity interest in the project or activity, shares in any profit on resale or any distribution of surplus cash or other assets of the project or activity, or receives compensation for any goods or services provided in connection with the project or activity. Residency of an individual in housing for which assistance is being sought is not, by itself, considered a covered financial interest.

The information required below must be provided.

1. Enter the full names and addresses. If the person is an entity, the listing must include the full name and address of the entity as well as the CEO. Please list all names alphabetically.
2. Entry of the Social Security Number (SSN) or Employee Identification Number (EIN), as appropriate, for each person listed is optional.
3. Enter the type of participation in the project or activity for each person listed: i.e., the person's specific role in the project (e.g., contractor, consultant, planner, investor).
4. Enter the financial interest in the project or activity for each person listed. The interest must be expressed both as a dollar amount and as a percentage of the amount of the HUD assistance involved.

Note that if any of the source/use information required by this report has been provided elsewhere in this application package, the applicant need not repeat the information, but need only refer to the form and location to incorporate it into this report. (It is likely that some of the information required by this report has been provided on SF 424A, and on various budget forms accompanying the application.) If this report requires information beyond that provided elsewhere in the application package, the applicant must include in this report all the additional information required.

Recipients must submit an update report for any change in previously disclosed sources and uses of funds as provided in Section I.D.5., above.

Notes:

1. All citations are to 24 CFR Part 4, which was published in the Federal Register. [April 1, 1996, at 63 Fed. Reg. 14448.]
2. Assistance means any contract, grant, loan, cooperative agreement, or other form of assistance, including the insurance or guarantee of a loan or mortgage, that is provided with respect to a specific project or activity under a program administered by the Department. The term does not include contracts, such as procurements contracts, that are subject to the Fed. Acquisition Regulation (FAR) (48 CFR Chapter 1).
3. See 24 CFR §4.9 for detailed guidance on how the threshold is calculated.
4. "Other government assistance" is defined to include any loan, grant, guarantee, insurance, payment, rebate, subsidy, credit, tax benefit, or any other form of direct or indirect assistance from the Federal government (other than that requested from HUD in the application), a State, or a unit of general local government, or any agency or instrumentality thereof, that is, or is expected to be made, available with respect to the project or activities for which the assistance is sought.
5. For the purpose of this form and 24 CFR Part 4, "person" means an individual (including a consultant, lobbyist, or lawyer); corporation; company; association; authority; firm; partnership; society; State, unit of general local government, or other government entity, or agency thereof (including a public housing agency); Indian tribe; and any other organization or group of people.

Acknowledgment of Application Receipt

U.S. Department of Housing and Urban Development

Type or clearly print the Applicant's name and full address in the space below.

(fold line)

Type or clearly print the following information:

Name of the Federal Program to which the applicant is applying: _____

To Be Completed by HUD

☐ HUD received your application by the deadline and will consider it for funding. In accordance with Section 103 of the Department of Housing and Urban Development Reform Act of 1989, no information will be released by HUD regarding the relative standing of any applicant until funding announcements are made. However, you may be contacted by HUD after initial screening to permit you to correct certain application deficiencies.

☐ HUD did not receive your application by the deadline; therefore, your application will not receive further consideration. Your application is:

- ☐ Enclosed
- ☐ Being sent under separate cover

Processor's Name _____

Date of Receipt _____

form **HUD-2993** (2/99)

Cost Summary

Indian Community Development Block Grant (ICDBG)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0191
(exp. 5/31/2003)

See Instructions and Public Reporting Statement on back.

1. Name of Applicant (as shown in Item 5, Standard Form 424)	2. Application/Grant Number (to be assigned by HUD upon submission)

3. ☐ **Original** (check here if this is the first submission to HUD)	☐ **Revision** (check here if submitted with implementation schedule as part of pre-award requirements	☐ **Amendment** (check here if submitted after HUD approval of grant)	Date (mm/dd/yyyy)

4. **Project Name & Project Category** (see instructions on back) a	**ICDBG** Amount Requested for each activity b	**Program Funds** (in thousands of $) **Other** Other Source Amount for each activity c	Source of Other Funds for each activity d
	$	$	
5. Administration a. General Management and Oversight			
b. Indirect Costs: Enter indirect costs to be charged to the program pursuant to a cost allocation plan.			
c. Audit: Enter estimated cost of Program share of A-133 audits.			
Administration Total *			
6. Planning The Project description must address the proposed use of these funds.			
7. Technical Assistance Enter total amount of ICDBG funds requested for technical assistance. **			
8. Sub Total Enter totals of columns b. and c.	$	$	
9. Grand Total Enter sum of column b. plus column c.			$

* The total of items 5 and 6 cannot exceed 20% of the total ICDBG funds requested.

** No more than 10% of ICDBG funds requested may be used for technical assistance. If funds are requested under this line item, a separate project description must accompany the application to describe the technical assistance the application intends to obtain. Only technical assistance costs associated with the development of a capacity to undertake a specific funded program activity are eligible (24 CFR 1003.206).

Instructions for Item 4.
Project Name and Project Type

Participants enter the project name and the name of one of the following three categories of activities:

- Housing
- Community Facilities
- Economic Development

Also enter the component name if applicable. Use a separate Cost Summary sheet (form HUD-4123) for each project included in the application.
Examples of categories and/or components including examples of eligible activities are listed below.

Housing

Rehabilitation Component
- Rehabilitation
- Demolition

Land to Support New Housing Component

New Housing Construction Component

Community Facilitites

Infrastructure Component
- Water
- Sewer
- Roads and Streets
- Storm Sewers

Buildings Component
- Health Clinic
- Daycare Center
- Community Center
- Multi-purpose Center

Economic Development
- Commercial (wholesale, retail)
- Industrial
- Motel/Hotel
- Restaurant
- Agricultural Development

Implementation Schedule

Indian Community Development Block Grant (ICDBG)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0191
(exp. 5/31/2003)

See Instructions and Public Reporting Statement on back.
Submit a separate implementation schedule for each project category.

1. Name of Applicant (as shown in Item 5, Standard Form 424)	2. Application/Grant Number (to be assigned by HUD)	3. ☐ Original (First submission to HUD) ☐ Pre-Award Submission ☐ Amendment (submitted after grant approval)	Date (mm/dd/yyyy)

4. Name of Project (as shown on form HUD-4123, item 4)	5. Effective Date (mm/dd/yyyy)	Expected Completion Date (mm/dd/yyyy)	Expected Closeout Date (mm/dd/yyyy)

6. Environmental Review Status

☐ **Exempt** (As described in 24 CFR 58.34)
☐ **Under Review** (Review underway; findings not yet made)
☐ **Finding of No Significant Impact** (Finding made that request for release of funds for project is not an action which may significantly affect the environment.)
☐ **EIS Required** (Finding that project may significantly affect environment or EIS automatically required by 24 CFR 58.37)
☐ **Not Started** (Review not yet begun)
☐ **Certification** (Environmental review completed; certification and request for release of funds being prepared for submission.)
☐ **Categorically Excluded** (as described in 24 CFR 58.35)

7. Tribal Fiscal Year (mm/dd/yyyy)

8. Task List (List tasks such as environmental assessment, acquisition, etc.)	9. Schedule. Use Calendar Year (CY) quarters. Fill-in the CY below. See detailed instructions on back.								
	CY ____					CY ____			Date (mm/dd/yyyy)
	1st Qtr.	2nd Qtr.	3rd Qtr.	4th Qtr.	5th Qtr.	6th Qtr.	7th Qtr.	8th Qtr.	(If exceeds 8th Quarter)
10. **Planned Drawdowns by Quarter** (Enter amounts non-cumulatively)	$	$	$	$	$	$	$	$	$Total
11. **Cumulative Drawdown** (If more than one page, enter total on last page only)	$	$	$	$	$	$	$	$	$Total

Previous editions are obsolete

page of pages

form **HUD-4125** (12/97)

Public reporting burden for this collection of information is estimated to average 40 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Paperwork Reduction Project (2577-0191), Office of Information Technology, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

This collection of information requires that each eligible applicant submit information to enable HUD to select the best projects for funding during annual competitions for the ICDBG Program. The information will be used by HUD to determine whether applications meet minimum screening eligibility requirements and application submission requirements. Applicants provide general information about the project which is preliminary to the review of the applicant's response to the criteria for rating the application. The information is essential for HUD in monitoring grants to ensure that grantees are making proper use of Federal dollars. Responses to the collection are required by Section 105 of the Department of Housing and Urban Development Reform Act (P.L. 101-235) as amended by the Cranston-Gonzales National Affordable Housing Act of 1990. The information requested does not lend itself to confidentiality.

Instructions for Item 9 Schedule: Use Calendar Year (CY) quarters. Fill-in the CY below. If the project begins in May, for example, enter under "1st Qtr.", A(April), M(May), J(June). Indicate time period required to complete each activity, e.g., acquisition, by entering "X" under the months it will begin and end. Draw a horizontal line from the first to the second "X". If the completion date will extend beyond the 8th quarter, enter date in the far right column and attach an explanation.

Instructions for the HUD-424

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number.

This form must be used by applicants requesting funding from the Department of Housing and Urban Development. This application form HUD-424 incorporates the Assurances and Certifications (HUD-424-B). You may either (1) attach the Assurances and Certifications to the application or (2) renew the certifications that you previously made on behalf of your organization and submitted to HUD if the legal name of your organization has not changed and you were the authorized representative who signed the Assurances and Certifications.

Item Number Instructions

1. Please indicate whether your application is for a formal application submission or a preliminary application (pre-application). HUD does not accept pre-applications for programs funded through the SuperNOFA.
2. Enter the date you are submitting your application to HUD.
3. This box will be completed by HUD. When received by HUD, your application will be stamped:
   (a) with a date; and
   (b) with the time received.
4. Leave Blank. This will be completed by the HUD program office receiving your application. When HUD accepts electronic applications for the grant program you are applying for, this number will be computer generated.
5. If your application is to renew or continue an existing grant, provide the existing grant number. If a new award, please leave blank.
6. Leave blank if you have not been provided a HUD ID number or user number. If you are a Public Housing Authority, enter your HUD issued Public Housing Authority ID number.
7. Enter the legal name of your organization applying for HUD funding.
8. Enter the name of the primary unit in your organization, if applicable, which will be responsible for the program.
9. Enter the complete address of your organization.
10. Enter the name, title, telephone number, fax number, and E-mail of the person to contact on matters related to your application.
11. Enter your organization's Employer Identification Number (EIN) as assigned by the Internal Revenue Service or if you are applying as an individual, your Social Security Number.
12. Choose from the list and enter the appropriate letter in the space provided. You must be an eligible applicant to apply for assistance. You must read the program information requirements to determine if you are a type of applicant that is eligible to apply for assistance under the program.
13. Enter the type of application you are submitting for funding consideration.

Check the appropriate box.

[redacted] "New" means you are applying for a new grant award.

[redacted] "Continuation" means you are requesting an extension of an existing award.

[redacted] "Renewal" means you are requesting funding for renewal of an existing grant. e.g. Supportive Housing Program (SHP) or Shelter + Care grant.

[redacted] "Revision" means you are submitting a revision prior to the application due date in response to HUD's request for clarification or modification to your initial submission.

14. Pre-filled.
15. Enter the Catalog of Federal Domestic Assistance (CFDA) number and title and, if applicable, component title of the program.
16. Enter a brief description of your program and key activities.
17. Identify the location(s) where your activities will take place. If this is the entire state, enter "Entire State".
18a. Enter the proposed start date.
18b. Enter the proposed end date.
19a. List the Congressional District(s) where your organization is located.
19b. List any Congressional District(s) where your program of activities or project sites will be located.
20. You must complete the funding matrix on page 2 of this form. Enter the following information:

Grant Program: The HUD funding program under which you are applying.

HUD Share: Please check the program requirements. Enter the amount of HUD funds you are requesting in your application.

Applicant Match: Enter the amount of funds or cash equivalent of in-kind contributions you are contributing to your project or program of activities.

Other Federal Share: Enter the amount of other Federal funds for your program of activities.

Instructions for the HUD-424 (Continued)

State Share: Enter the amount of funds or cash equivalent of in-kind services the State is providing to your project or program of activities.
Local/Tribal Share: Enter the amount of funds or cash equivalent of in-kind services your local/tribal government is providing to your project or program of activities.
Other: Enter the amount of other sources of private, non-profit, or other funds or cash equivalent of in-kind services being provided to your project or program of activities.
Program Income: Enter the amount of program income you expect to generate over the life of your award.
Total: Please total all columns and fill in the amounts.
21. You should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 or check your application kit to determine whether the State Intergovernmental Review Process is required.
22. This question applies to your applicant organization, not the person signing as your organization's authorized representative. Categories of debt include disallowed costs that requires repayment to HUD.
23. To be signed by the authorized representative of your organization. A copy of your governing body's authorization for you to sign this application must be available in your organization's office.

Appendix B
for use in Rating Factor 2

(IHBG Need Dollars Relative to Low Income Households and Housing Conditions)

*N/A = No income or housing problems

Office	Tribe	Need $/ Income + Conditions	Office	Tribe	Need $/ Income + Conditions
ALASKA	Afognak	$1,300	ALASKA	Bristol Bay Native Regional Corp.	*N/A
ALASKA	Ahtna Native Regional Corporation	$1,428	ALASKA	Buckland	$1,297
ALASKA	Akhiok	$1,438	ALASKA	Calista Native Regional Corporation	$1,146
ALASKA	Akiachak	$1,261	ALASKA	Cantwell	$1,471
ALASKA	Akiak	$1,249	ALASKA	Chalkyitsik	$1,154
ALASKA	Akutan	$1,786	ALASKA	Chanega	$1,667
ALASKA	Alakanuk	$1,179	ALASKA	Chefornak	$1,242
ALASKA	Alatna	$1,379	ALASKA	Chevak	$1,276
ALASKA	Aleknagik	$1,213	ALASKA	Chickaloon	$917
ALASKA	Aleutian Regional Corp.	$805	ALASKA	Chignik	$910
ALASKA	Algaaciq (St. Mary's)	$1,798	ALASKA	Chignik Lagoon	$2,273
ALASKA	Allakaket	$1,238	ALASKA	Chignik Lake	$1,210
ALASKA	Ambler	$1,345	ALASKA	Chilkat	$943
ALASKA	Anaktuvuk Pass	$1,756	ALASKA	Chilkoot	$1,173
ALASKA	Andreafski	$1,369	ALASKA	Chistochina	$1,488
ALASKA	Angoon	$913	ALASKA	Chitina	$2,083
ALASKA	Aniak	$1,374	ALASKA	Chuatbaluk	$1,407
ALASKA	Annette Island (Metlakakla)	$1,074	ALASKA	Chugach Native Regional Corporation	$1,180
ALASKA	Anvik	$1,370	ALASKA	Chuloonawick	*N/A
ALASKA	Arctic Slope Native Regional Corp.	$1,496	ALASKA	Circle	$1,259
ALASKA	Arctic Village	$1,355	ALASKA	Clark's Point	$1,058
ALASKA	Atka	$969	ALASKA	Cook Inlet Native Regional Corporation	$1,047
ALASKA	Atmautluak	$1,325	ALASKA	Council	$2,083
ALASKA	Atqasuk (Atkasook)	$1,844	ALASKA	Craig	$972
ALASKA	Baranof Island Regional Corporation	$973	ALASKA	Crooked Creek	$1,238
ALASKA	Barrow	$1,943	ALASKA	Curyung	$1,347
ALASKA	Beaver	$1,407	ALASKA	Deering	$1,444
ALASKA	Belkofski	*N/A	ALASKA	Dot Lake	$4,167
ALASKA	Bering Straits Native Regional Corp.	*N/A	ALASKA	Douglas	$918
ALASKA	Bill Moore's Slough	*N/A	ALASKA	Doyon Native Regional Corporation	$1,284

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(IHBG Need Dollars Relative to Low Income Households and Housing Conditions)

*N/A = No income or housing problems

Office	Tribe	Need $/ Income + Conditions	Office	Tribe	Need $/ Income + Conditions
ALASKA	Birch Creek	$1,471	ALASKA	Eagle	$1,232
ALASKA	Brevig Mission	$1,448	ALASKA	Eek	$1,192
ALASKA	Egegik	$1,372	ALASKA	Kasigluk	$1,298
ALASKA	Eklutna	$1,101	ALASKA	Kassan	$938
ALASKA	Ekuk	*N/A	ALASKA	Kenaitze	$1,188
ALASKA	Ekwok	$1,558	ALASKA	Ketchikan	$1,008
ALASKA	Elim	$1,173	ALASKA	Kiana	$1,355
ALASKA	Emmonak	$1,225	ALASKA	King Cove	$2,116
ALASKA	Evansville (Bettles Field)	$1,092	ALASKA	King Island	$1,286
ALASKA	Eyak	$1,289	ALASKA	King Salmon Tribe	$1,923
ALASKA	False Pass	$1,240	ALASKA	Kipnuk	$1,540
ALASKA	Fort Yukon	$1,284	ALASKA	Kivalina	$1,304
ALASKA	Gakona	$12,500	ALASKA	Klawock	$912
ALASKA	Galena	$1,182	ALASKA	Kluti Kaah (Copper Center)	$1,168
ALASKA	Gambell	$1,465	ALASKA	Knik	$1,022
ALASKA	Georgetown	*N/A	ALASKA	Kobuk	$1,609
ALASKA	Golovin (Chinik)	$1,231	ALASKA	Kokhanok	$1,271
ALASKA	Goodnews Bay	$1,232	ALASKA	Koliganek	$1,090
ALASKA	Grayling	$1,031	ALASKA	Kongiganak	$1,431
ALASKA	Gulkana	$1,205	ALASKA	Koniag Native Reg Corporation	$1,366
ALASKA	Hamilton	*N/A	ALASKA	Kotlik	$1,185
ALASKA	Healy Lake	$1,504	ALASKA	Kotzebue	$1,499
ALASKA	Holy Cross	$1,512	ALASKA	Koyuk	$1,400
ALASKA	Hoonah	$967	ALASKA	Koyukuk	$1,280
ALASKA	Hooper Bay	$1,289	ALASKA	Kwethluk	$1,268
ALASKA	Hughes	$1,120	ALASKA	Kwigillingok	$1,383
ALASKA	Huslia	$1,477	ALASKA	Kwinhagak (Quinhagak)	$1,256
ALASKA	Hydaburg	$890	ALASKA	Larsen Bay	$1,667
ALASKA	Igiugig	$3,571	ALASKA	Lesnoi (Woody Island)	$1,243
ALASKA	Iliamna	$1,014	ALASKA	Levelock	$1,197
ALASKA	Inalik (Diomede)	$1,181	ALASKA	Lime	$1,303
ALASKA	Ivanoff Bay	$1,137	ALASKA	Lower.Kalskag	$1,360
ALASKA	Kaguyak	$25,000	ALASKA	Manley Hot Springs	$1,259
ALASKA	Kake	$1,247	ALASKA	Manokotak	$1,204

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(IHBG Need Dollars Relative to Low Income Households and Housing Conditions)

*N/A = No income or housing problems

Office	Tribe	Need $/ Income + Conditions	Office	Tribe	Need $/ Income + Conditions
ALASKA	Kaktovik (Barter Island)	$1,949	ALASKA	Marshall	$1,262
ALASKA	Kalskag	$1,612	ALASKA	Mary's Igloo	*N/A
ALASKA	Kaltag	$1,192	ALASKA	McGrath	$1,308
ALASKA	Kanatak	$949	ALASKA	Mekoryuk	$1,353
ALASKA	Karluk	$1,242	ALASKA	Mentasta	$1,564
ALASKA	Minto	$1,226	ALASKA	Platinum	$1,436
ALASKA	Mountain Village	$1,191	ALASKA	Point Hope	$1,803
ALASKA	Naknek	$1,097	ALASKA	Point Lay	$1,766
ALASKA	NANA Native Regional Corporation	$1,250	ALASKA	Port Graham	$958
ALASKA	Nanwelek (English Bay)	$1,288	ALASKA	Port Heiden	$1,133
ALASKA	Napaimute	*N/A	ALASKA	Port Lions	$1,893
ALASKA	Napakiak	$1,221	ALASKA	Portage Creek	*N/A
ALASKA	Napaskiak	$1,334	ALASKA	Qagan Tayagungin (Sand Point)	$1,556
ALASKA	Nelson Lagoon	$1,843	ALASKA	Qawalangin (Unalaska)	$1,958
ALASKA	Nenana	$1,189	ALASKA	Rampart	$1,174
ALASKA	New Stuyahok	$1,424	ALASKA	Red Devil	$1,251
ALASKA	Newhalen	$1,431	ALASKA	Ruby	$1,299
ALASKA	Newtok	$1,435	ALASKA	Russian Mission (Yukon)	$1,226
ALASKA	Nightmute	$1,519	ALASKA	Saint George	$1,192
ALASKA	Nikolai	$1,248	ALASKA	Saint Michael	$1,355
ALASKA	Nikolski	$1,295	ALASKA	Saint Paul	$1,424
ALASKA	Ninilchik	$1,041	ALASKA	Salamatoff	$1,265
ALASKA	Noatuk	$1,666	ALASKA	Savoonga	$1,562
ALASKA	Nome	$1,327	ALASKA	Saxman	$1,256
ALASKA	Nondalton	$1,294	ALASKA	Scammon Bay	$1,262
ALASKA	Noorvik	$1,357	ALASKA	Selawik	$1,347
ALASKA	Northway	$1,267	ALASKA	Seldovia	$3,125
ALASKA	Nuiqsut	$1,687	ALASKA	Shageluk	$1,227
ALASKA	Nulato	$1,169	ALASKA	Shaktoolik	$1,365
ALASKA	Nunapitchuk	$1,247	ALASKA	Sheldon's Point	$1,394
ALASKA	Ohogamiut	*N/A	ALASKA	Shishmaref	$1,342
ALASKA	Old Harbor	$1,223	ALASKA	Shoonaq' Tribe of Kodiak	$1,088
ALASKA	Orutsararmuit (Bethel)	$1,368	ALASKA	Shungnak	$1,282
ALASKA	Oscarville	$1,340	ALASKA	Skagway	$999
ALASKA	Ouzinkie	$1,615	ALASKA	Sleetmute	$1,258
ALASKA	Paimiut	*N/A	ALASKA	Solomon	$2,083

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Office	Tribe	Need $/ Income + Conditions	Office	Tribe	Need $/ Income + Conditions
ALASKA	Pauloff Village	$2,083	ALASKA	South Naknek	$1,260
ALASKA	Pedro Bay	$1,389	ALASKA	Stebbins	$1,305
ALASKA	Perryville	$1,720	ALASKA	Stevens	$1,229
ALASKA	Petersburg	$924	ALASKA	Stoney River	$1,387
ALASKA	Pilot Point	$2,021	ALASKA	Takotna	$1,563
ALASKA	Pilot Station	$1,179	ALASKA	Tanacross	$1,179
ALASKA	Pitka's Point	$1,195	ALASKA	Tanana	$1,246
ALASKA	Tatitlek	$1,128	CHICAGO	Catawba Indian Tribe	$502
ALASKA	Tazlina	$1,077	CHICAGO	Cayuga Nation	$792
ALASKA	Telida	*N/A	CHICAGO	Coharie State Tribe	$537
ALASKA	Teller	$1,418	CHICAGO	Eastern Cherokee	$526
ALASKA	Tetlin	$1,316	CHICAGO	Fond Du Lac Band of Minnesota	$723
ALASKA	Tlingit and Haida	$1,121	CHICAGO	Forest County Potawatami	$729
ALASKA	Togiak	$1,214	CHICAGO	Grand Portage Band of Minnesota	$692
ALASKA	Toksook Bay	$1,204	CHICAGO	Grand Traverse Band	$626
ALASKA	Tuluksak	$1,312	CHICAGO	Haliwa-Saponi State Tribe	$595
ALASKA	Tuntutuliak	$1,430	CHICAGO	Hannahville Community	$691
ALASKA	Tununak	$1,212	CHICAGO	Ho-Chunk Nation	$719
ALASKA	Twin Hills	$1,145	CHICAGO	Houlton Band of Maliseets	$702
ALASKA	Tyonek	$1,223	CHICAGO	Huron Band of Potawatomi	$751
ALASKA	Ugashik	$5,000	CHICAGO	Keweenaw Bay Indian Community	$793
ALASKA	Umkumiute	$1,203	CHICAGO	Lac Courte Oreilles	$671
ALASKA	Unalakleet	$1,399	CHICAGO	Lac Du Flambeau Band	$663
ALASKA	Unga	$1,316	CHICAGO	Lac Vieux Desert Band	$856
ALASKA	Venetie	$1,228	CHICAGO	Leech Lake Band of Minnesota Chippewa	$699
ALASKA	Wainwright	$1,496	CHICAGO	Little River Band of Ottawa	$693
ALASKA	Wales	$1,260	CHICAGO	Little Traverse Bay Band	$618
ALASKA	White Mountain	$1,353	CHICAGO	Lower Sioux	$663
ALASKA	Wrangell	$875	CHICAGO	Lumbee State Tribe	$604

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(IHBG Need Dollars Relative to Low Income Households and Housing Conditions)

*N/A = No income or housing problems

Office	Tribe	Need $/ Income + Conditions	Office	Tribe	Need $/ Income + Conditions
ALASKA	Yakutat	$1,082	CHICAGO	Match-e-be-nash-she-wish Band of Potta	$590
CHICAGO	Aroostook Band of Micmac	$699	CHICAGO	Menominee Indian Tribe	$681
CHICAGO	Bad River Band	$708	CHICAGO	Miccosukee Tribe	$1,786
CHICAGO	Bay Mills Indian Community	$752	CHICAGO	Mille Lacs Band of Minnesota Chippewa	$772
CHICAGO	Boise Forte Band of Minnesota Chippewa	$666	CHICAGO	Mississippi Choctaw Tribe	$612
CHICAGO	MOWA Band of Choctaw Indians	$557	CHICAGO	Waccamaw Siouan State Tribe	$610
CHICAGO	Narragansett Tribe	$743	CHICAGO	White Earth Band of Minnesota Chippewa	$642
CHICAGO	Oneida Nation of New York	$656	DENVER	Blackfeet Tribe	$689
CHICAGO	Oneida Tribe	$697	DENVER	Cheyenne River Sioux	$781
CHICAGO	Onondaga Nation	*N/A	DENVER	Crow Creek Sioux	$702
CHICAGO	Passamaquody Indian Tribe	$683	DENVER	Crow Tribe	$639
CHICAGO	Penobscot Tribe	$683	DENVER	Flandreau Santee Sioux	$1,398
CHICAGO	Pleasant Point	$699	DENVER	Fort Belknap Indian Community	$709
CHICAGO	Poarch Band of Creek Indians	$530	DENVER	Fort Peck Assiniboine and Sioux	$683
CHICAGO	Pokagon Band of Potawatomi	$655	DENVER	Ft. Berthold Affiliated Tribes	$802
CHICAGO	Red Cliff Band of Lake Superior Chippe	$752	DENVER	Goshute Reservation	$536
CHICAGO	Red Lake Band of Chippewa	$758	DENVER	Lower Brule Sioux	$755
CHICAGO	Sac & Fox Tribe	$640	DENVER	Northern Arapahoe	$605
CHICAGO	Saginaw Chippewa	$1,911	DENVER	Northern Cheyenne	$700
CHICAGO	Saint Croix Chippewa	$779	DENVER	NW Band of Shoshone Nation	$724
CHICAGO	Sault Ste. Marie Tribe	$605	DENVER	Oglala Sioux of Pine Ridge Reservation	$734
CHICAGO	Seminole Tribe	$609	DENVER	Omaha Tribe	$695
CHICAGO	Seneca Nation of New York	$724	DENVER	Ponca Tribe of Nebraska	$655
CHICAGO	Shakopee Sioux	$1,786	DENVER	Rocky Boy Chippewa-Cree	$678
CHICAGO	Sokagoan Chippewa Tribe	$866	DENVER	Rosebud Sioux	$798

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(IHBG Need Dollars Relative to Low Income Households and Housing Conditions)

*N/A = No income or housing problems

Office	Tribe	Need $/ Income + Conditions	Office	Tribe	Need $/ Income + Conditions
CHICAGO	St. Regis Mohawk Tribe	$742	DENVER	Salish and Kootenai Tribes	$600
CHICAGO	Stockbridge-Munsee Tribe	$585	DENVER	Santee Sioux Tribe	$757
CHICAGO	Tonawanda Band of Senecas	$685	DENVER	Shoshone Tribe of the Wind River Reser	$645
CHICAGO	Tuscarora Nation	$647	DENVER	Sisseton-Wahpeton Sioux	$682
CHICAGO	Upper Sioux Indian Community	$680	DENVER	Skull Valley Band of Goshute	*N/A
CHICAGO	Wampanoag Tribe	$1,150	DENVER	Southern Ute Tribe	$660
			DENVER	Spirit Lake Sioux Tribe	$697
DENVER	Standing Rock Sioux	$697	OKLAHOMA	Kickapoo Tribe	$716
DENVER	Turtle Mountain Band of Chippewa	$686	OKLAHOMA	Kickapoo Tribe of Oklahoma	$519
DENVER	Uintah & Ouray Ute Indian	$646	OKLAHOMA	Kiowa Tribe	$510
DENVER	Utah Paiute Tribe	$737	OKLAHOMA	Loyal Shawnee	$496
DENVER	Ute Mountain Tribe	$683	OKLAHOMA	Miami Tribe	$455
DENVER	Winnebago Tribe	$658	OKLAHOMA	Modoc Tribe	$641
DENVER	Yankton Sioux	$618	OKLAHOMA	Muskogee (Creek) Nation	$501
OKLAHOMA	Absentee-Shawnee	$722	OKLAHOMA	Osage Tribe	$476
OKLAHOMA	Alabama-Coushatta	$560	OKLAHOMA	Otoe-Missouria Tribe	$489
OKLAHOMA	Alabama-Quassarte Tribal Town	$493	OKLAHOMA	Ottawa Tribe	$456
OKLAHOMA	Apache Tribe	$538	OKLAHOMA	Pawnee Tribe	$495
OKLAHOMA	Caddo Tribe	$707	OKLAHOMA	Peoria Tribe	$601
OKLAHOMA	Cherokee Nation	$518	OKLAHOMA	Ponca Tribe	$480
OKLAHOMA	Cheyenne-Arapaho Tribes	$555	OKLAHOMA	Prairie Band of Potawatomi	$626
OKLAHOMA	Chickasaw	$549	OKLAHOMA	Quapaw Tribe	$462
OKLAHOMA	Chitimacha Tribe	$473	OKLAHOMA	Sac and Fox of Missouri	$1,316
OKLAHOMA	Choctaw Nation	$500	OKLAHOMA	Sac and Fox Tribe	$530
OKLAHOMA	Citizen Band Potawatomi Tribe	$541	OKLAHOMA	Seminole Nation	$516
OKLAHOMA	Comanche Tribe	$545	OKLAHOMA	Seneca-Cayuga	$454
OKLAHOMA	Coushatta Tribe	$2,632	OKLAHOMA	Texas Band of Kickapoo Indians	$489
OKLAHOMA	Delaware Tribe	$694	OKLAHOMA	Thlopthlocco Tribal Town	$505

Appendix B
for use in Rating Factor 2

(IHBG Need Dollars Relative to Low Income Households and Housing Conditions)

*N/A = No income or housing problems

Office	Tribe	Need $/ Income + Conditions	Office	Tribe	Need $/ Income + Conditions
OKLAHOMA	Delaware Tribe of Indians (Eastern)	$545	OKLAHOMA	Tonkawa Tribe	$508
OKLAHOMA	Eastern Shawnee Tribe	$459	OKLAHOMA	Tunica-Biloxi Tribe	$620
OKLAHOMA	Fort Sill Apache Tribe	$515	OKLAHOMA	United Keetoowah	$495
OKLAHOMA	Iowa Tribe of Kansas and Nebraska	$560	OKLAHOMA	Wichita Tribe	$891
OKLAHOMA	Iowa Tribe of Oklahoma	$441	OKLAHOMA	Wyandotte	$459
OKLAHOMA	Jena Band of Choctaw	$447	PHOENIX	Acoma Pueblo	$628
OKLAHOMA	Kaw Tribe	$635			
OKLAHOMA	Kialegee Tribal Town	$503			
PHOENIX	Agua Caliente Band of Cahuilla	$680	PHOENIX	Ely Shoshone	$1,316
PHOENIX	Ak-Chin	$611	PHOENIX	Enterprise Rancheria	$704
PHOENIX	Alturas Rancheria	$8,333	PHOENIX	Fallon Paiute-Shoshone	$741
PHOENIX	Auburn Rancheria	$756	PHOENIX	Fort Bidwell	$728
PHOENIX	Augustine Band of Cahuilla	*N/A	PHOENIX	Fort Independence	$2,083
PHOENIX	Barona Group of Capitan Grande	$1,870	PHOENIX	Fort McDermitt Paiute and Shoshone	$623
PHOENIX	Berry Creek Rancheria	$728	PHOENIX	Fort McDowell Mohave Apache	$601
PHOENIX	Big Lagoon Rancheria	*N/A	PHOENIX	Fort Mojave Tribe	$676
PHOENIX	Big Pine Band	$884	PHOENIX	Gila River	$860
PHOENIX	Big Sandy Rancheria	$747	PHOENIX	Graton Rancheria	$1,042
PHOENIX	Big Valley Rancheria	$785	PHOENIX	Greenville Rancheria	$674
PHOENIX	Blue Lake Rancheria	$3,125	PHOENIX	Grindstone Rancheria	$697
PHOENIX	Bridgeport Paiute Indian Colony	$1,786	PHOENIX	Guidiville Rancheria	$759
PHOENIX	Buena Vista Rancheria	$5,000	PHOENIX	Havasupai	$1,002
PHOENIX	Cabazon Band	$1,515	PHOENIX	Hoopa Valley	$763
PHOENIX	Cahuilla Band	$596	PHOENIX	Hopi	$662
PHOENIX	Campo Band	$828	PHOENIX	Hopland Rancheria	$763
PHOENIX	Cedarville Rancheria	$6,250	PHOENIX	Hualapai	$804
PHOENIX	Chemehuevi	$675	PHOENIX	Inaja Band	*N/A
PHOENIX	Chicken Ranch Rancheria	*N/A	PHOENIX	Ione Band of Miwok Indians	$699
PHOENIX	Chico Rancheria	$707	PHOENIX	Isleta Pueblo	$519
PHOENIX	Cloverdale Rancheria	$797	PHOENIX	Jackson Rancheria	$2,941
PHOENIX	Cochiti Pueblo	$581	PHOENIX	Jamul Indian Village	*N/A
PHOENIX	Cocopah Tribe	$613	PHOENIX	Jemez Pueblo	$605
PHOENIX	Cold Springs Rancheria	$662	PHOENIX	Jicarilla Reservation	$662

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for use in Rating Factor 2

(IHBG Need Dollars Relative to Low Income Households and Housing Conditions)

*N/A = No income or housing problems

Office	Tribe	Need $/ Income + Conditions	Office	Tribe	Need $/ Income + Conditions
PHOENIX	Colorado River Indian Tribes	$889	PHOENIX	Kaibab Band of Paiute	$1,190
PHOENIX	Colusa Rancheria	$5,000	PHOENIX	Karuk	$871
PHOENIX	Cortina Rancheria	$747	PHOENIX	La Jolla Band	$920
PHOENIX	Coyote Valley Band	$862	PHOENIX	La Posta Band	*N/A
PHOENIX	Cuyapaipe Community	*N/A	PHOENIX	Laguna Pueblo	$598
PHOENIX	Death Valley Timba-Sha	$670	PHOENIX	Las Vegas Colony	$1,316
PHOENIX	Dry Creek Rancheria	$797	PHOENIX	Laytonville Rancheria	$908
PHOENIX	Duck Valley Shoshone-Paiute	$677	PHOENIX	Lone Pine Paiute-Shoshone	$758
PHOENIX	Duckwater Shoshone	$607			
PHOENIX	Elk Valley Rancheria	$781			
PHOENIX	Los Coyotes Band of Cahuilla	$686	PHOENIX	Ramona Band	*N/A
PHOENIX	Lovelock Colony	$589	PHOENIX	Redding Rancheria	$719
PHOENIX	Lower Lake Rancheria	$2,174	PHOENIX	Redwood Valley Rancheria	$774
PHOENIX	Lytton Rancheria of California	$792	PHOENIX	Reno-Sparks Colony	$510
PHOENIX	Manchester Point Arena Rancheria	$789	PHOENIX	Resighini Rancheria	$1,515
PHOENIX	Manzanita Band	$926	PHOENIX	Rincon Reservation	$690
PHOENIX	Mesa Grande Band	$658	PHOENIX	Robinson Rancheria	$840
PHOENIX	Mescalero Reservation	$568	PHOENIX	Rohnerville Rancheria	$743
PHOENIX	Middletown Rancheria	$773	PHOENIX	Round Valley Reservation	$798
PHOENIX	Moapa Band of Paiute	$922	PHOENIX	Rumsey Rancheria	$980
PHOENIX	Mooretown Rancheria	$712	PHOENIX	Salt River Plma-Maricopa	$661
PHOENIX	Morongo Band of Cahuilla	$1,857	PHOENIX	San Carlos Apache	$684
PHOENIX	Nambe Pueblo	$645	PHOENIX	San Felipe Pueblo	$603
PHOENIX	Navajo Nation	$658	PHOENIX	San Ildefonso Pueblo	$562
PHOENIX	North Fork Rancheria	$689	PHOENIX	San Juan Pueblo	$629
PHOENIX	Paiute-Shoshone of Bishop Colony	$608	PHOENIX	San Juan Southern Paiute Tribe	$690
PHOENIX	Pala Bank	$637	PHOENIX	San Manuel Band	$1,282
PHOENIX	Pascua Yaqui Tribe	$765	PHOENIX	San Pasqual Band	$847
PHOENIX	Paskenta Band of Nomlaki Indian	$709	PHOENIX	San Rosa Band of Cahuilla	$1,087
PHOENIX	Pauma Band	$718	PHOENIX	Sandia Pueblo	$554
PHOENIX	Payson Tonto Apache	$492	PHOENIX	Santa Ana Pueblo	$624

Appendix B
for use in Rating Factor 2

(IHBG Need Dollars Relative to Low Income Households and Housing Conditions)

*N/A = No income or housing problems

Office	Tribe	Need $/ Income + Conditions	Office	Tribe	Need $/ Income + Conditions
PHOENIX	Pechanga Band	$607	PHOENIX	Santa Clara Pueblo	$534
PHOENIX	Picayune Rancheria	$687	PHOENIX	Santa Rosa Rancheria	$686
PHOENIX	Picuris Pueblo	$745	PHOENIX	Santa Ynez Band of Chumash	$826
PHOENIX	Pinoleville Rancheria	$803	PHOENIX	Santa Ysabel Reservation	$577
PHOENIX	Pit River Tribe	$746	PHOENIX	Santo Domingo Pueblo	$616
PHOENIX	Pojoaque Pueblo	$561	PHOENIX	Scotts Valley (Pomo)	$781
PHOENIX	Potter Valley Rancheria	$1,000	PHOENIX	Sheep Rancheria	*N/A
PHOENIX	Pyramid Lake Paiute	$797	PHOENIX	Sherwood Valley Rancheria	$810
PHOENIX	Quartz Valley Reservation	$653			
PHOENIX	Quechan Tribe	$694			
PHOENIX	Shingle Springs Rancheria	$6,250			
PHOENIX	Smith River Rancheria	$625	PHOENIX	Ysleta Del Sur	$556
PHOENIX	Soboba Band	$711	PHOENIX	Yurok Tribe	$799
PHOENIX	Stewarts Point Rancheria	$804	PHOENIX	Zia Pueblo	$528
PHOENIX	Sulphur Bank Rancheria	$738	PHOENIX	Zuni Tribe	$624
PHOENIX	Summit Lake Paiute Tribe	$8,333	SEATTLE	Burns-Paiute Colony	$650
PHOENIX	Susanville Rancheria	$727	SEATTLE	Chehalis Confederated Tribes	$816
PHOENIX	Sycuan Band	*N/A	SEATTLE	Coeur D'Alene Tribe	$724
PHOENIX	Table Bluff Rancheria	$712	SEATTLE	Colville Confederated Tribes	$684
PHOENIX	Table Mountain Rancheria	$1,471	SEATTLE	Coos Bay Confederated Tribes	$703
PHOENIX	Taos Pueblo	$590	SEATTLE	Coquille Indian Tribe	$720
PHOENIX	Te-Moak	$676	SEATTLE	Cow Creek Tribes	$686
PHOENIX	Tesuque Pueblo	$647	SEATTLE	Cowlitz Tribe	$698
PHOENIX	Tohono O'Odham Nation	$642	SEATTLE	Fort Hall Shoshone-Bannock	$661
PHOENIX	Torres-Martinez Band of Cahuilla	$835	SEATTLE	Grand Ronde Confederated Tribe	$699
PHOENIX	Tule River Indian Tribe	$677	SEATTLE	Hoh Indian Tribe	$919
PHOENIX	Tulomne Rancheria	$734	SEATTLE	Jamestown S'Klallam Tribe	$722
PHOENIX	Twenty Nine Palms Band	*N/A	SEATTLE	Kalispel Indian Community	$812
PHOENIX	Upper Lake Rancheria	$783	SEATTLE	Klamath Indian Tribe	$704

Appendix B
for use in Rating Factor 2

(IHBG Need Dollars Relative to Low Income Households and Housing Conditions)

*N/A = No income or housing problems

Office	Tribe	Need $/ Income + Conditions		Office	Tribe	Need $/ Income + Conditions
PHOENIX	Utu Utu Gwaiti Paiute	$485		SEATTLE	Kootenai Tribe	$12,500
PHOENIX	Viejas Group of Capitan Grande	$1,367		SEATTLE	Lower Elwha Tribal Community	$745
PHOENIX	Walker River Paiute Tribe	$802		SEATTLE	Lummi Tribe	$728
PHOENIX	Washoe Tribe	$779		SEATTLE	Makah Indian Tribe	$794
PHOENIX	White Mountain Apache (Fort Apache)	$676		SEATTLE	Muckleshoot Indian Tribe	$843
PHOENIX	Winnemucca Colony	$2,941		SEATTLE	Nez Perce Tribe	$643
PHOENIX	Yavapai-Apache (Camp Verde)	$809		SEATTLE	Nisqually Indian Community	$781
PHOENIX	Yavapai-Prescott	$3,125		SEATTLE	Nooksack Tribe	$714
PHOENIX	Yerington Paiute Tribe	$553		SEATTLE	Port Gamble Indian Community	$754
PHOENIX	Yomba Shoshone Tribe	$758				
SEATTLE	Puyallup Tribe	$725		SEATTLE	Squaxin Island Tribe	$754
SEATTLE	Quileute Tribe	$923		SEATTLE	Stillaguamish Tribe	$735
SEATTLE	Quinault Tribe	$743		SEATTLE	Suquamish Tribal Council	$737
SEATTLE	Samish Nation	$694		SEATTLE	Swinomish Indians	$744
SEATTLE	Sauk-Suiattle Indian Tribe	$955		SEATTLE	Tulalip Tribes	$853
SEATTLE	Shoalwater Bay Tribe	$694		SEATTLE	Umatilla Confederated Tribes	$769
SEATTLE	Siletz Confederated Tribes	$777		SEATTLE	Upper Skagit Tribe	$962
SEATTLE	Skokomish Indian Tribe	$740		SEATTLE	Warm Springs Confederated Tribes	$709
SEATTLE	Snoqualmie	$729		SEATTLE	Yakima Indian Nation	$789
SEATTLE	Spokane Tribe	$701				

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/nara005.html*. Some laws may not yet be available.

H.R. 825/P.L. 108–46

To redesignate the facility of the United States Postal Service located at 7401 West 100th Place in Bridgeview, Illinois, as the ''Michael J. Healy Post Office Building''. (July 14, 2003; 117 Stat. 847)

H.R. 917/P.L. 108–47

To designate the facility of the United States Postal Service located at 1830 South Lake Drive in Lexington, South Carolina, as the ''Floyd Spence Post Office Building''. (July 14, 2003; 117 Stat. 848)

H.R. 925/P.L. 108–48

To redesignate the facility of the United States Postal Service located at 1859 South Ashland Avenue in Chicago, Illinois, as the ''Cesar Chavez Post Office''. (July 14, 2003; 117 Stat. 849)

H.R. 981/P.L. 108–49

To designate the facility of the United States Postal Service located at 141 Erie Street in Linesville, Pennsylvania, as the ''James R. Merry Post Office''. (July 14, 2003; 117 Stat. 850)

H.R. 985/P.L. 108–50
To designate the facility of the United States Postal Service located at 111 West Washington Street in Bowling Green, Ohio, as the ''Delbert L. Latta Post Office Building''. (July 14, 2003; 117 Stat. 851)

H.R. 1055/P.L. 108–51
To designate the facility of the United States Postal Service located at 1901 West Evans Street in Florence, South Carolina, as the ''Dr. Roswell N. Beck Post Office Building''. (July 14, 2003; 117 Stat. 852)

H.R. 1368/P.L. 108–52
To designate the facility of the United States Postal Service located at 7554 Pacific Avenue in Stockton, California, as the ''Norman D. Shumway Post Office Building''. (July 14, 2003; 117 Stat. 853)

H.R. 1465/P.L. 108–53
To designate the facility of the United States Postal Service located at 4832 East Highway 27 in Iron Station, North Carolina, as the ''General Charles Gabriel Post Office''. (July 14, 2003; 117 Stat. 854)

H.R. 1596/P.L. 108–54
To designate the facility of the United States Postal Service located at 2318 Woodson Road in St. Louis, Missouri, as the ''Timothy Michael Gaffney Post Office Building''. (July 14, 2003; 117 Stat. 855)

H.R. 1609/P.L. 108–55
To redesignate the facility of the United States Postal Service located at 201 West Boston Street in Brookfield, Missouri, as the ''Admiral Donald Davis Post Office Building''. (July 14, 2003; 117 Stat. 856)

H.R. 1740/P.L. 108–56
To designate the facility of the United States Postal Service located at 1502 East Kiest Boulevard in Dallas, Texas, as the ''Dr. Caesar A.W. Clark, Sr. Post Office Building''. (July 14, 2003; 117 Stat. 857)

H.R. 2030/P.L. 108–57
To designate the facility of the United States Postal Service located at 120 Baldwin Avenue in Paia, Maui, Hawaii, as the ''Patsy Takemoto Mink Post Office Building''. (July 14, 2003; 117 Stat. 858)

H.R. 2474/P.L. 108–58
To authorize the Congressional Hunger Center to award Bill Emerson and Mickey Leland Hunger Fellowships for fiscal years 2003 and 2004. (July 14, 2003; 117 Stat. 859)

S. 858/P.L. 108–59
To extend the Abraham Lincoln Bicentennial Commission, and for other purposes. (July 14, 2003; 117 Stat. 860)

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